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FEARING EQUALITY.

DONALD GRAHAM.

A dissertation submitted to the University of Bristol in accordance with the requirements of the degree of Doctor of Philosophy in the Faculty of Social Sciences.

School for Policy Studies

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ABSTRACT.

FEARING EQUALITY OF OPPORTUNITY: DISCRIMINATION IN N. IRELAND.

This study examines over ten chapters the degree of inequality of opportunity within NI during a critical period of Direct Rule from the introduction of the 1976 Fair Employment (NI) Act to its replacement by the 1989 Fair Employment (NI) Act. An historical outline is given of the Stormont regime to place in context the argument presented that economic development in NI stressed patronage for Protestants at the expense of Catholics. The practical realisation of Stormonts' agenda to secure and maintain a "Protestant State for a Protestant People" and the failure by the British government to fundamentally alter this during a critical period of investment under Direct Rule are assessed. It is argued that the structural imbalances in terms of employment and unemployment are so great that equality of opportunity in terms of the redistribution of employment cannot be provided within current political, economic and geographical boundaries. The view is advanced that to seek to do so would undermine the very existence of NI as a distinct entity.

The degree of inequality is evidenced by reference to specific case studies in the private and public sector. The extent of legislative reform and their origins in terms of equal opportunity laws are evaluated with specific reference to the American and British examples. The central part of the thesis covering the period from 1976 to the late 1980's with a commentary on the 1990's are selected as marking a period of significant developments and international attention on inequalities in NI. This is evaluated by reference to the conduct of formal investigations, the response by major employers and the development of an international campaign to promote equality within NI. Some comment is made on recent political developments under the Good Friday Agreement with reference to its Equality Agenda in employment. The consequences of these measures are not evaluated however as being beyond the scope of the thesis but also as in many cases they are proposals or reforms that have yet to be fully implemented.

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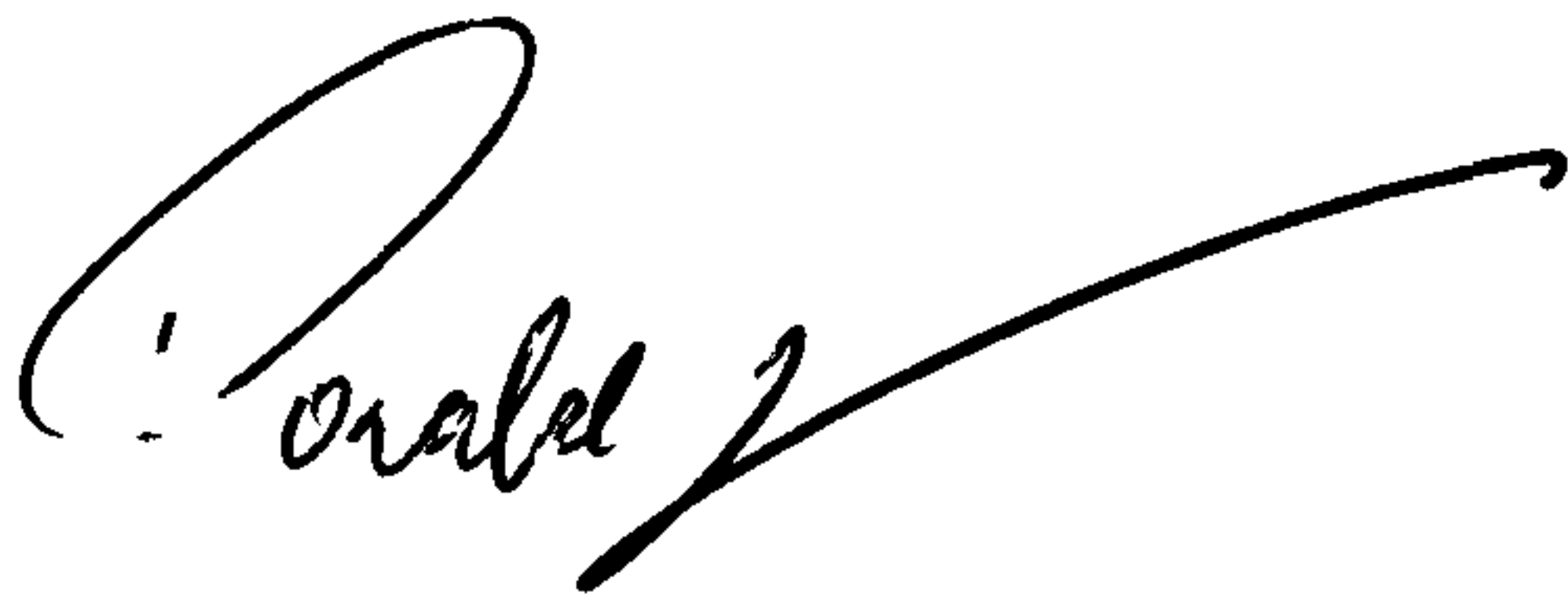
Author's Declaration.

I declare that the work in this dissertation was carried out in accordance with the Regulations of the University of Bristol. The work is original except where indicated by special reference in the text and no part of the dissertation has been submitted for any other degree.

Any views expressed in the dissertation are those of the author and in no way represent those of the University of Bristol.

The dissertation has not been presented to any other University for examination either in the United Kingdom or overseas.

Signed.

A handwritten signature in black ink, appearing to read 'P. Orabel', followed by a long, sweeping horizontal stroke.

Date. 31st March 2001.

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CHAPTER ONE. NEW BEGINNINGS.

Introduction.

An anonymous English 16th century civil servant wrote that the war in Ireland “...would always continue without God set in men’s [hearts] to find some new remedy that never was found before”.¹ This thesis assesses the application of a key component of British social policy – the promotion and enforcement of equal opportunity legislation with reference to challenging religious discrimination in Northern Ireland (NI). The context is a society noted for its lack of consensus and frequent violent conflict in relation to political rule and identity. The constraints in delivering equality of opportunity policy objectives are therefore evaluated within the historical and political context of what became known as the “Orange State” where power and patronage were exercised in the interests of the Protestant majority. The particular application of equal opportunity legislation by the British government’s local equality enforcement agency – the Fair Employment Agency - is the core of the study. It will be argued that NI’s “Orange” context predetermined the limitations of its enforcement powers and their specific application in employment. This will be supported by reference to key case studies and internal policy debates that reflected the civil divisions at the heart of this society.

The thesis will seek to demonstrate that the fundamental schisms which have characterised NI since its formal inception in 1921 as a distinct entity within the United Kingdom remain and have proven remarkably resilient within the geo-political framework of its current borders and power structures. A theoretical discourse on the modern bourgeois state, the limitations of social democracy as understood in the West or a Marxist analysis of the state is not offered. Rather the study focuses on a very particular society separate from but within the UK whose history has seen power overtly wielded for those who identified themselves as Protestant. The enthusiastic alliance between what was originally the local landed and manufacturing Protestant bourgeoisie with the aggressive support of the Protestant working class is assessed within the field of discrimination and its role in sustaining the unity of this society. It is also argued that the British State supported the maintenance of this loyal paradigm.

The impact of covert and overt policies by Stormont and the British government and the reaction to them by nationalists and republicans are placed within the struggle for equality and the ideologies of supremacy that became associated with Protestant rule in NI. The key question as to whether NI is capable of undergoing fundamental reform without altering historical and contemporary patterns of employment and inequality is examined. It is concluded that the economic and political restrictions on NI as currently structured make fundamental change impossible. The conclusions derived from this assessment are that the interrelationships of power, politics, prejudice and material benefit are found to be too strong a paradigm to be more than marginally altered without leading to the practical demise of NI. This argument is supported by reference to analysis of legislation, case studies and assessment of a range of initiatives by the British government. The central period assessed is the application of equal opportunity legislation from the first Act introduced in 1976 to its replacement by a new Act and Commission in 1989/90. The significance of the thesis and the questions it raises are singularly relevant to later and current developments as the British government's current policy initiatives seek to stabilise the North. One of the critical elements of this is what is now broadly described as the Equality Agenda. This process started prior to the Belfast Agreement ² in April 1998 with the specific events referred to in this thesis.

On the 10th December 1998, the Fourth Standing Committee on Delegated Legislation considered a draft Fair Employment and Treatment (Northern Ireland) Order in the British House of Commons. The order consolidated and extended legislation unique to NI. On the day of the 50th anniversary of the universal declaration of human rights, the Minister of State MP, Adam Ingram, asserted that the "Promotion of equality among all sections of the population in Northern Ireland has been a priority of successive Administrations since the 1970s." The minister added:

"This has been a momentous year for human rights in the United Kingdom generally and in Northern Ireland in particular. It has seen the enactment of the Human Rights Act 1998 and the Northern Ireland Act 1998, which will establish a Northern Ireland Human Rights Commission. Among the wide –ranging functions

¹ Cited by Canon Nicholas Frayling, Anglican Rector of Liverpool, in 'An English Repentance', *The Guardian*, 11th March, 2000.

² *The Belfast Agreement: An Agreement Reached at the Multi-Party Talks on Northern Ireland*, April 1998, HMSO, Cm 3883.

of that commission, its task will be to consult and advise on the scope for a bill of rights for Northern Ireland. The new protections for human rights will complement the extensive protections against discrimination in Northern Ireland law in, including fair employment legislation.”³

The order represented the third major overhaul of fair employment legislation, all of which have occurred during significant periods of political turbulence and violence. The 1976 Act was replaced by the 1989 Act – this was in turn amended twice in 1991 and 1995- and then the 1998 Order which extended and consolidated the previous Fair Employment Acts. The latter fulfilled the commitment given by the British Government in the Good Friday Agreement between the Irish and British governments. The agreement placed an onus on the British to “make rapid progress with ... measures on employment equality included in the recent White Paper”.⁴ The order was drafted in post devolution terms to reflect a transitional period in line with the provisions of the Northern Ireland Act 1998. Apart from incorporating various amendments it extended the legislation to include the provision of goods and services, the management and disposal of premises including land and brought fair employment into line with law on sex and race discrimination. The objective of these laws was described by the Minister as a moral one.

The application of this moral framework is examined within the historical context and application of such laws in a society riven by conflict, sectarian patronage, material and cultural inequalities. It also tests the popular British view that Britain has been an impartial bystander refereeing an incomprehensible conflict and seeks to demonstrate that morality has not featured particularly highly as a driving force in managing Britain’s problem in NI. The thesis does not seek to suggest that British policy and its application has been wholly consistent with securing the many variations of the unionist cause. However it will demonstrate that sustaining and maintaining the union throughout the modern period of direct rule by the passive and active support for a sectarian society has been the prevailing *modus operandi*. As the state has declared it has a moral imperative this will be examined by reference to the overtly sectarian period of the Stormont regime – “a Protestant state for a Protestant people”- as compared to the more sophisticated approach exercised under Direct Rule. For as Adam Ingram MP, Minister of State declared in December 1998 on behalf of New Labour that “Equality of opportunity is not something that will happen on

³ *House of Commons Official Report*, 10 December 1998, London, The Stationary Office.

⁴ *Partnership for Equality*, March 1998 Cm 3890, HMSO.

its own accord; it must be planned for and worked for, like other business objectives”.⁵ The promotion of equality of opportunity in NI has thereby become simply another business objective that is part of New Labours' modernising agenda. Public services in Britain as a whole are the subject of a wholesale managerial revolution -democratic renewal, joined up government, thinking the unthinkable – as the government seeks to achieve its long term programme of “better government to make life better for people”.⁶ Partnership and citizenship, a better deal, public services as a force for good, restoring confidence, are all major themes in this agenda. Can a conflict agenda be replaced by a managerial modernising one that seeks inclusion rather than exclusion? The thesis explores whether the very real political and material structural imbalances created by Britain and unionists can now be unravelled. It also poses the fundamental question as to whether it is indeed the case that fundamental reforms are impossible in terms of delivering their stated objectives – equality of opportunity - without undermining the very existence of NI as a separate entity?

Alternative frameworks of the state in NI.

In a review of 500 works Whyte (1990) concluded that researchers on NI had reached “unanimity only on the barest matters of fact”.⁷ These related to the bare historical bones of the foundation of NI but when more precise discussion was embarked upon as to potential solutions and the weight to be given to particular causes – religion, the British and Irish states, economic, political and psychological factors- disagreement became widespread. Whyte categorised the four major interpretations as traditional nationalist; traditional unionist; various Marxist interpretations and those who focused on the matter as primarily one of internal conflict between two communities.⁸ A brief commentary is made on these theoretical frameworks, the practical problems associated with them and the general approach in this research.

The traditional nationalist viewpoint adopts a plain anti-colonial stance whereby a

⁵ *House of Commons Official Report*, 10 December 1998, London, The Stationary Office.

⁶ *Modernising Central Government*, Conference Islington, November 1998, *Modernising government*, March 1999, *Citizens First*, modernising government annual report 2000, 13 September 2000, Cabinet Office, Modernising Government Secretariat.

⁷ Whyte, John.(1990)*Interpreting Northern Ireland*, Clarendon Paperbacks, Oxford University Press, see pp.244-61,p.244.

⁸ *Ibid.* pp.113-205.

subjected country attributes its misfortunes to the imposition of a foreign rule. Partition was no more than a malign settlement as the English imperial power maintained its class alliance and broader international interests through unionists in NI. Strauss noted that partition was the practical expression of the limits of nationalism where one part of Ireland refused to “accept community with the other”. He noted that “it (partition) is a permanent memento of the limitations of nationalism and a challenge for its transfiguration into a higher principle of social action”.⁹ Thus to endeavour to create a nationalist united Ireland derived from nationalist aspirations alone without the support of the majority of Protestants whose particular material and political interests were at odds with this endeavour would fail. The 1937 Irish Constitution ignored this and simply asserted its domain as the whole of Ireland although it did affirm the sovereign right of the whole people of Ireland to chose their forms of government and rule, “free from outside interference”, i.e. England. For the traditional nationalist, partition was an unresolved colonial heritage that would be resolved by traditional methods – physical force. The integrity of Ireland was more important than any unionist divergence on the matter. This model described England as an imperial power that had imposed a border with its unionist allies determined by the distribution of religion as a badge of loyalty or rebellion. For republicans a final break with England would oblige unionists to see their interests lay with their fellow Irishmen. It would also end the oppression of nationalists and Catholics in the North.

Another important and long-standing nationalist strand linked the struggle for self-determination into higher “principles of social action”. This stems from the influence of James Connolly (1870-1916) who took his analysis from the writings of Marx and Engels. The objective was a workers victory over the powers of capital and imperialism. The struggle for independence in Ireland was part of a wider radical struggle to liberate the workers from capital, which in turn would become a cause for unity for among Protestants and Catholics.¹⁰ The Marxist anti-imperial stance was succinctly encapsulated by Connolly in his remark that the “cause of Ireland is the cause of Labour” alongside his trenchant critique of the reactionary history of clericalism in the coercion of Ireland by

⁹ See Strauss, E. *Irish Nationalism and British Democracy*, pp.290-291, (1951) Greenwood Press, Connecticut, USA; Gallagher, Frank, *The Indivisible Island: The History of the Partition of Ireland*, (1957) London, Gollancz.

¹⁰ Connolly, James, in Ryan, Desmond, (ed) (1948) *Socialism and Nationalism: A Selection from the Writings of James Connolly*, pp.102,73, Dublin: Three Candles.

England.¹¹ The achievement of some form of socialist Ireland needed to link the cause of Labour with that of the small farmer, North and South. This was the general position expressed by socialists and radical republicans such as Connolly, Liam Mellows and Rory O'Connor in the 1916 rising and subsequent civil war. Their position became the inspiration for an ad hoc and uneasy ideological alliance between socialists and radical nationalists who stressed the cause of Ireland first and possibly the cause of Labour second.

Modern expressions of this dynamic included those such as Farrell (1976). The challenge remained the creation of a degree of class unity that went beyond the immediate demand for national liberation. Farrell saw discrimination as a mechanism that enabled British imperialism and unionism to sustain a class alliance with the Protestant working class. In the heady days following the 1974 Loyalist UWC strike and the intense loyalist murder campaign Farrell proclaimed the necessity to create a mass anti-imperialist struggle North and South to defeat both loyalism and the forces of Catholic reaction governing the South. This 'two for the price of one' approach would establish a united socialist Ireland. Farrell described the choices as, "a semi-fascist Orange statelet in the North matched by a pro-imperialist police state in the South, and, on the other hand, an anti-imperialist and socialist revolution".¹² Significantly this revolution was to be carried forward by the southern working class in alliance with those engaged in a guerrilla war in the North. The engagement of the Protestant working class in an enterprise to destroy their supremacy and state in a fit of class-consciousness was not deemed likely. The Protestant or unionist position would in this scenario adapt to the new material reality of a unified Ireland due to the absence of the British State as a guarantor of traditional unionist supremacy. Class relations in this new political entity would thereby have the opportunity to come to the fore unshackled by nationalist and unionist aspirations which would have either been satisfied or no longer relevant as a material reality. McCann's (1974) contribution to this debate added the dimension that Protestants had in any case good grounds to reject the notion of a united Ireland where the Catholic Church had secured such influence on the institutions and ideology of the state. The South as such was an alien entity with the solution being to "destroy clerical conservatism in the South", while politicizing the

¹¹ Connolly, James. *Selected Political Writings*, (1973), pp.61-162 (ed) Owen Dudley Edwards & Bernard Ransom, Jonathon Cape, London.

¹² Farrell, Michael. *Northern Ireland: The Orange State*, pp.335, (1976), Pluto.

“economic militancy of Protestant trade unionists”.¹³

These ambitions were of necessity somewhat tempered by the constant absence of any mass class alliance and social revolution as events demonstrated that the Unionist cause rested not simply on a bourgeois alliance with ‘perfidious Albion’, but a popular mass base among Protestants.¹⁴ By 1988 while continuing the “Long March to Freedom”, Farrell recognised that not much had changed in 20 years but considered there may be some hope for building unity with the Protestant working class. This optimism was based on some tentative links he considered existed around common concerns developing over the use of plastic bullets, strip-searching, the use of informants and housing developments. The challenge was to “link these groups and struggles with the fight against discrimination and repression of the nationalist community and bring home a realisation that the Northern state itself is inherently sectarian, repressive and irreformable”.¹⁵

The problem with this approach was the overwhelming historical evidence that any desires among Protestants for class unity had always been a minority element whose aspirations were consistently defined within the context of NI. A more hardheaded conclusion would have been that loyalist protests against plastic bullets and other coercive measures was driven more by the fact that “their police force” had the audacity to use them against Protestants. Farrell’s ‘tentative evidence’ gave too much weight to the role of economic determinism as a force for class unity. The modern history of NI has provided overwhelming evidence since 1976 that such confidence was misplaced. McKay’s (2000) work illustrates the enduring strength of the Protestant mind set across classes that represents a powerful force against any common identification with nationalists seeking to end the state of NI or the ‘Protestant way of life’.¹⁶ The “new all –Ireland socialist society” remained a far horizon with the border, and conflict associated with its existence, remaining defining characteristics in terms of class and religious allegiance. The material and ideological allegiance by Protestants to the NI State was seriously underestimated. The possibility that militant unionism may prefer a further repartition of NI to sustain a Protestant status quo, as an alternative to class unity and revolution was not countenanced.

¹³ McCann, Eamonn. *War in an Irish Town*, p.202, (1974), Penguin & Pluto (1980)

¹⁴ Farrell, Michael. *Arming the Protestants*, (1983), Brandon.

¹⁵ Farrell, Michael. (ed) *Twenty Years On*, p.73, *Long March to Freedom*, pp.54-74, (1988) Brandon.

The traditional unionist approach has a strong strain of “not an inch”¹⁷ so that every perceived encroachment by Catholics into employment or political administration is simply more evidence that Britain cannot be trusted and “Lundyism” is at work. Unionists sought complete political integration into the UK; a return to the Stormont regime or at worst the repartition of NI to ensure a Protestant majority. The current NI Assembly may prove to be an acceptable alternative as long as Protestant hegemony is not unduly threatened by the need to accommodate the Catholic middle class into an active body politic. The ideology of supremacy remains. This is in part informed by unionist agitation that they are distinct from Catholics; a derivative of some form of Scot-British that makes them anything but Irish. Catholics remain the disloyal enemies within their midst even if these include the professional, business and administrative groups that are eager to participate in legitimising and accepting the status quo. The historical position of unionism that the southern economy could not sustain a ‘British way of life’ in any case has been made redundant by the current success of the Irish “tiger economy”. The unionist economic argument against unity now focuses on the North’s dependency on massive subventions from the UK to survive. This is something the south could not afford nor surely desire. The Northern Ireland Economic Council (NIEC) has called for greater co-operation for mutual benefit so that “inward investors and indigenous firms might see the island more as a single market and the advantages of locating in different parts”.¹⁸ The securing of an “island economy” however requires a sense of common political purpose, political administration and economic interest that is absent. In essence the badge of unionism rests on an identity called British that is considered the antithesis of being Irish economically, socially and politically.¹⁹

The problem with this model is that it has failed to secure civil and political stability or an acceptance by nationalists that the organs and institutions of the state are legitimate and worthy of support. It is a model based on the imposition of power supported by Britain. While the British government retains what is described by nationalists as a “unionist veto” and declare that the union remains safe with Britain then the potential for unionists to see alternatives beyond this model are remote. The creation of the NI Assembly has been

¹⁶ McKay, Susan. (2000) *Northern Protestants An Unsettled People*, Blackstaff Press, Belfast.

¹⁷ Shearman, Hugh. (1942), *Not an Inch: A Study of Northern Ireland and Lord Craigavon*, Faber & Faber.

¹⁸ NIEC, ‘The Economic Implications of Peace and Political Stability for N. Ireland’, Occasional Paper 4: June 1995, p.32, Belfast.

¹⁹ See Whyte, John. (1990), Chapter 7, pp.146-174, for a fuller discussion.

characterised to date by the need to support unionist hegemony which throughout 2001 focused on the British governments desire to appease unionism in the form of David Trimble MP, the First Minister. While the suspension/restart of the NI Assembly was partly influenced by the British government's desire not to have fresh elections, due to the view that more militant unionists opposed to the Assembly would dominate, this in itself reinforces the view that the future existence of NI is wholly dependant on maintaining a unionist paradigm.

Alternative frameworks that see the conflict as primarily an internal paradigm include O'Leary (1985) and the revisionist Marxist views of Bew and Patterson (1979, 1980), although Bew has now moved to becoming a public spokesperson for the official unionist interpretation.²⁰ The classic position of Marx and Engels was that independence for Ireland was essential to end the enduring conflict with England and would act as a means of promoting social emancipation for the working class in England. Liberation and class unity therefore must be built through a general struggle against imperialism with national liberty a legitimate objective.²¹ Bew and Patterson considered however that a strategy that included national liberation reinforced conservative elements among Protestants making them hostile to any such enterprise. Rather they felt a secular labour ethos could be fostered by removing the nationalist objective of ending the state of NI. They asserted "there is nothing inherently reactionary about the Protestant working class or, for that matter, a national frontier which puts Protestants in a numerical majority".²² In support of this they exaggerated the role of the Northern Ireland Labour Party (NILP) pointing to the role of the engineering workers as a progressive secular force. The case studies of key employers and workforces in the engineering industry presented in this work demonstrate this position to be a fallacy. The class alliance among Protestants was not one solely between a 'labour aristocracy' and local bourgeoisie but a genuine mass one where class was mediated by powerful sectarian forces with a material - however uneven the benefits- and ideological basis. The most eloquent comment on the strength of the NILP was its demise especially as many of its leading figures and local trade unions reinforced sectarian

²⁰ O'Leary, Brendan. (1985), 'Explaining Northern Ireland: A Brief Study guide', *Politics*, 5(1)(Apr.), 35-41, and Bew, Paul., Gibbon, Peter., Patterson, Henry., *The State in Northern Ireland 1921-72*, (1979) Manchester University Press; and 'Some Aspects of Nationalism and Socialism in Ireland: 1968-78', pp.152-171, in *Ireland, Divided Nation Divided Class* (1980) (ed) Morgan, A. & Purdie, Bob. Ink Links.

²¹ Marx, Karl. & Engels, Frederick. *Ireland and the Irish Question, A collection of Writings*, (1972), International Publishers, New York.

²² Bew, Paul., Patterson, Henry. & Gibbon, Peter. (1979), p. 221. See pp.207-221.

employment patterns. As Hepburn and Rumpf (1977) noted the NILP never held a safe seat and its survival rested upon an ability to manipulate the religious balance “by being different things to different men” in accordance with the needs of any given sectarian electoral calculus.²³ Bew and Patterson also failed to address the consequences for the respective working classes, - in terms of their material realities, opportunities, and ideological perspectives, - of the creation of a state which had as its *raison d'être* the maintenance of a Protestant majority to secure unionist rule. Bew and Patterson could have been less defensive by simply noting the *objective material* situation of Protestants in *their* state required them to be a reactionary force. More could also have been made of the conservatism of their Catholic counterparts whose ‘radical’ nature is concluded on the basis of resistance to Britain’s presence. While again this may place Catholics in an *objectively* radical position it does not follow that their class-consciousness was of such particular note that they would overwhelmingly support socialist alternatives. The evidence of time has shown this not to be the case, North or South. Rather the sectarian nature of NI places them in mutual antagonism toward the other because their material and political condition places them in opposition. Similarly the fact that Catholics have endured the coercive apparatus of the North has allowed the Catholic Church to present itself as a defensive bulwark against the power of unionism, something Connolly would have had some difficulty reconciling. Partition simply reinforced by default the privileged position of the Catholic Church and its institutions that have a long history as a force of reaction and accommodation in Ireland. Connolly’s brand of anti-clericalism could not bear fruit in an area where religious institutions and associated identity were a source of solidarity and refuge thereby allowing reactionary theology to flourish.

The Catholic Church continued its traditional role of condemning those who embraced the more radical ‘physical force tradition’. Thus partition secured the position of the most reactionary forces – Catholic and Protestant – North and South. It also as O’Dowd (1980)²⁴ noted enabled the British ruling class to overcome their differences over the future of Ireland that had proved a constant feature of the 19th and early 20th centuries. In the process the Labour movement became largely irrelevant as the protagonists focused on the legitimacy of the new state at Stormont. It is also worth noting that sectarian political

²³ For a discussion on the NILP see Rumpf, E. & Hepburn, A.C. *Nationalism and Socialism in 20th Century Ireland*, (1977) p.195., See pp.195-208, Liverpool University Press.

divisions did not begin with Partition. Animosity and segregation characterised the North since the 17th century plantations. The 1866 Home Rule Bill crisis saw Protestant Belfast as a force for unionism. Partition secured the maintenance of local unionists, the political and class alliance with Britain and created a devolved parliament to manage this process without interfering with British parliamentary processes. The Orange Order bridged the divide between the landed urbane Protestant gentry and the emerging Protestant working class. The Order was thereby able to successfully broker patronage and ensure class relations in the North were primarily conducted via a sectarian prism that reflected particular material interests.²⁵ This *material reality* has assisted in the accumulation of capital and ensured that a history of colonial relationships are reproduced in contemporary political frameworks without resolution. As O'Dowd noted,

“Class relations in NI were only experienced as *sectarian class* relations. Sectarian division is itself a particular historical division of class or more precisely of class fractions, cemented together in Protestant and Catholic class alliances. In other words sectarian division is a class phenomenon and *vice versa*”.²⁶

Miller (1998) develops this theme in the context of a colonial settlement.²⁷ Britain's long relationship with Ireland saw attempts to fully integrate the administration of Ireland as part of the United Kingdom. When this broke down the 'settler-colonists' had their position protected by the creation of Stormont within the British State. Thus to understand the particular relation of unionism to Britain and the rest of Ireland requires a conceptual framework that accepts the relationship is not yet post-colonial. In this context a community of interest does not exist. The distinct sense of identity is a dynamic process that develops in accordance with material and ideal interests and or the degree by which community interests are placed at risk. What Miller refers to as a “colonial hegemony” works to restrict the boundaries of acceptable debate and intellectual development by engendering a self-serving lack of interest in academic and political circles. Thus the prevailing views aired in popular media and academic discourse are those that see Britain as an unfortunate arbitrator imprisoned in a conflict derived from history but not of its making. Understanding of the conflict and its potential resolution become contained within intellectual and physical borders with acceptable outcomes. The latter are currently

²⁴ O'Dowd, Liam. 'Shaping and Reshaping the Orange State', pp.1-29., in *Northern Ireland Between Civil Rights and Civil War*, (1980) O'Dowd, Liam., Rolston, Bill., Tomlinson, Mike., CSE Books.

²⁵ See Gibbon, Peter. *The origins of Ulster Unionism*, (1975), Manchester University Press.

²⁶ O'Dowd, Liam. (1980) 'Shaping and Reshaping the Orange State', p.25. See also Hepburn, A.C. & Rumpf, E. (1977), 'Northern Ireland: The Politics of a Divided State', pp.164-195.

²⁷ Miller, David., (ed) (1998) *Rethinking Northern Ireland, Culture, Ideology and Colonialism*, Longman.

the interests of the “greater number” within NI. Miller describes this process as the hegemonic production of consent.²⁸ The British state has won consent in civil society for its approach and where this has not proved possible the application of coercive apparatus has neutralised the threat and enabled elements of the opposition to enter a process of mediation. The NI Assembly is a useful example as it illustrates the tentative nature of the process and its potential to implode on unresolved contradictions. Miller’s advocacy of study and research that reclaims the concept of colonialism and its physical and intellectual expressions has major implications for advocates of solutions that may not have “acceptable outcomes” to British ‘civil society’.

Other internal models such as O’Leary and as Whyte argues the *Cameron Report* (1969), focus on internal conflict as the primary source of the problem.²⁹ The thrust of this debate is to concentrate on the expressions of internal grievance e.g. discrimination, gerrymandering, the B Specials, Special Powers Act, etc. The solution then is to secure British rights for British citizens that are at the heart of fair employment and human rights legislation. The national aspiration and historical struggle for independence can be resolved internally by securing sufficient support and legitimacy for the pursuit of equal rights. The role of the NI Assembly in this context is to provide some semblance of power sharing to Catholics and thereby facilitate legitimising the processes and institutions of the state. It also has the added dimension of legitimising the entry of middle class Catholics to the organs of government and control. In essence the sociological description for this approach is the functionalist internal model. The legitimacy of the state is accepted as a given with the primary question being its role and practices as the tool of a modern liberal society (Cormack and Osborne 1983). Their “political arithmetic” model in taking “argument, disciplined by facts and figures, addressed to issues of government” necessarily involves an ahistorical approach that separates out issues of power, politics and prejudice from the status quo.³⁰ It requires a faith in the integrity of state institutions to act as impartial mediators in a sectarian market place once presented with the evidence of disadvantage.

This model is incapable of dealing with the situation whereby the purpose of the state has

²⁸ Miller, David. (1998) See pp.18-21, ‘Colonialism and academic representations of the troubles’, pp.3 -39.

²⁹ Whyte, John (1991), Chapter 9, pp.194-205

been declared by its founders to ensure these disadvantages exist to secure a Protestant class alliance. Their distributive model focuses on the manner by which the market and educational system distributes opportunities as opposed to a *redistributive* model that expressly seeks to overcome the inequalities created by maintenance of the status quo. In this context they see the agents of the state, such as equal opportunity mechanisms, as part of the solution when as will be shown they became very much part of the problem. This approach is not sufficient to offer a valid interpretation of the causes of discrimination in NI nor offer any prospect of fundamental challenge or material change to the historical and contemporary patterns of inequality. It is an organisational model trapped in the time and place of a specific set of data relations without reference to questions of the history, power, and purpose behind such relations. The *Cameron Report* and similar government commissions become a catalogue for documenting the shortcomings of administrative practice and not a means to challenge the fundamental nature of the constitution and origins of government.³¹

The approach adopted in this work is to accept the statements of NI's founding fathers that NI was created as a unionist state with the specific purpose of securing colonial interests – military, strategic, economic- that prevailed at the time. To achieve this and end disruption to the imperial class alliance one imperative of the British State had to be securing the interests of Protestants in NI. This was achieved by imposing Partition and the establishment of the Stormont regime. The inequalities contained within this society were a continuation of inequalities of power and privilege associated with the colonial conquest of Ireland. It is argued however as Britain's historical imperatives changed in the context of international and national developments the nature of the state within NI could not change without becoming a source of its own demise. Inequalities drawn from the badge of religion associated with national liberation and unionism were and remained essential to maintaining the character and dominance of a unionist society. The challenge for New Labour's modernising of government agenda is to develop among significant sectors of the Catholic and nationalist population loyal acceptance of the constitution and institutions of NI. To this end the manipulation of the "equality agenda" is now a formal political

³⁰ Cormack, R.J., & Osborne, R.D., (eds.) (1983), *Religion, Education and Employment,, Aspects of Equal Opportunity in Northern Ireland*. Appletree Press, Belfast.

³¹ See for example, *Report of the Investigatory Commission into NIHE Contracts*, (July 1979), Cmnd.7586, HMSO; *Report of the Committee of Inquiry into Police Interrogation Procedures in NI*, (March 1979), Cmnd.7497, HMSO; *Report of the Commission to consider legal procedures to deal with terrorist activities in NI*, (the Diplock Report, December 1972), Cmnd.5185, HMSO.

priority as expressed in the Good Friday Agreement reached between the Irish and British governments and the local political parties on the 10th April 1998.³² By assessing the practical outcomes of Direct Rule, through its impact on patterns of employment in terms of the equality agenda, this work indicates the strength of a colonial heritage that cannot be resolved via internal-conflict resolution models alone. While the NI Assembly provides an opportunity for enhanced local government with an Irish dimension as a fringe benefit for nationalists it does not have the power or ability to change the market place. The approach taken suggests that from a macro perspective the potential for the NI economy to sustain those currently economically active without British subvention is not possible. From this position it is argued that the market place does not have the flexibility or opportunities to deliver of itself the degree of redistribution that would overcome inequalities in employment that have flowed from the nature of the NI state. Secondly that to create such opportunities requires the development of a genuine 'island economy' that would require cultural changes in identity and perspective that would see the Irish - North and South -, with common political and economic interests managed by a common administration. Thirdly as this is an unacceptable proposal for the 'greater number' the economic opportunities that exist will continue to be defined by a market place that carries all the weight of inequalities expressed via religious and political identities. This approach then while assessing the evidence of inequality within NI postulate resolutions that have an Irish and British dimension. It will also be demonstrated that the internal model cannot offer a resolution to inequalities of opportunity. The colonial analogy in terms of ideology and material reality has been modified by history and the development of the South into a set of very complex relations whereby the Irish and British governments appear to have in common a greater range of objectives as members of the EEC. Ireland is no longer perceived to be a threat in terms of offering other powers a platform for invasion nor as a potential source for social revolution. However the colonial model maintains its relevance in the context of a modern nation state -Ireland- that remains partitioned and seeks unity as a general objective. Within this setting an island economy, a common political administration and goals that secure the passive or active acceptance by the majority of Irish people cannot be achieved. NI thereby remains in a perpetual state of insecurity and instability characterised by a sense of impermanence. In short NI remains a 'state' without legitimacy and as a place not likely to last. This in turn has intensified the sense of

³² *The Agreement*, (10th April 1998), HMSO, Cm 3883. See pp.16-20; and *Partnership for Equality*, (March

Protestant insecurity that has found its expression in militant opposition to British policy towards nationalists and republicans and at times extreme sectarian violence.³³

Equality of opportunity in the market place.

The concept of equality tends to be an idea that is lost in the debate on inequality. The popular image of equality as some vaguely defined, if at all, form of egalitarianism, becomes lost in itself, in a debate which raged throughout modern times in the struggle between left and right during the 19th and 20th centuries. The pursuit of equality may be generally categorised as seeking to achieve a collective good for the whole of society and subjecting the institutions of the state to this greater good on behalf of the community. Inequalities were defined in terms of class and the relationship of a class to ownership of the prevailing modes of production. The great proponents of this comprehensive ideal on the left were Marx and Lenin. Bourgeois democrats on the other hand, taking their lead from the modern British liberal tradition derived from Locke, Hobbes and Rousseau, regarded inequalities as essential and natural to society. These were defined more in terms of an individuals personal relationship to society. This tradition adopted as its touchstone a concept of fairness and justice. An individuals personal inequality became of social significance when that inequality was derived from an act of injustice. In short liberty, equality and inequality were defined in law and statutes by institutions whose right to draft and impose these terms of reference rested on a general consensus of legitimacy given to the state or body politic. The common good still existed, but as a concept of greater justice, which at times is above and beyond the letter of the law. This may be defined as a concept of justice based on fairness. The balance and recognition of these principles is mutually interdependent. Modern exponents of this, Rawls³⁴ for example, can be traced

1998), HMSO, Cm 3890.

³³ In September 2000 for example the Holy Cross episode occurred whereby Catholic children going to a primary school through a Protestant area in the Ardoyne, North Belfast, were barracked, abused and attacked by loyalist men and women attracted world wide press coverage due to the raw nature of the sectarian hate on display. The end result was not a resolution brokered by anyone fostering class unity or sisterhood but the extension of a wall to keep the sides apart. One Catholic mother taking her child through this sectarian gauntlet related “those people who attack us and abuse children don’t deserve to be called human beings. Those loyalists are animals”. A Protestant mother participating in the protests described without any sense of irony that she thought it was “terrible what’s happening to those poor little kids. But you have to ask yourself why their parents are bringing up children this way? They know we’ll be here. They’re abusing those children and using them as propaganda. You have to be an animal to do that to your own child”. (London *Evening Standard*, 7th September 2001) A stop to this was brokered on Monday 26th November 2001.

³⁴ Rawls, J. (1958) ‘Justice as Fairness’, *Philosophical Review* LXVLII, pp. 164- 95, reproduced in Blowers, A. and Thompson, G. *Inequalities Conflict and Change*, Open University Press, 1976. See also Alan Ryan, *New Society*, (5th February 1981), ‘John Rawls and his theory of justice’.

straight back to Rousseau's (1762) *Social Contract and Discourses*.³⁵ Rousseau argued that the force of circumstances continually tended to destroy equality so the force of legislation "should always tend to its maintenance". This was of course to be maintained in direct proportion to the sizes, wealth and property of those who embodied the needs of "popular sovereignty". The law then has to intervene as regulator and/or source of punitive tool when some form of offence takes place that prevents or impedes an individual's ability to exercise his/her capacity in their own way.

Thus what is now popularly known as "liberal morality", has as its essence a concept of justice which is an expression of historical social relations that act through various institutions in society. Equality before the law rests on inequality in property and wealth. Equality is therefore not an abstract ideal but a concept given expression via society's legal statutes that is to be applied within a framework where individuals pit their skills, abilities and wealth against each other. In short a free market.³⁶ While the Marxist approach also accepted and recognised the role of inequalities in society, Marx focused on the relationship between the control and ownership of the means of production as the cause of inequality. Legislation was therefore not a tool to control and direct competing forces but an instrument of the bourgeois state to impose its will in the interests of a market controlled and directed by those whose interests it used the law to protect.³⁷ Marx, by making a distinction between the idealism of a particular moral position and the goals which are possible under given economic and political systems directly associated the development of the common good with a particular economic system.

Thus while the distribution of rewards for labour acts to perpetuate inequality by treating all classes equally in the sense that their relationship to the means of production remain unchallenged this can then find its modern expression in the market as the concept of equality of opportunity. It may not be too fanciful to suggest that Marx perhaps saw the dictatorship of the proletariat as a form of positive discrimination whereby inequalities in

³⁵ Rousseau, Jean-Jacques. *The Social Contract and Discourses*, J.M. Dent & Sons, 1973;cf. Plamentz, John. *Man and Society*, Vols. 1 & 2, Longman 1981, for a critical discussion on social and political theories from Machiavelli to Marx.

³⁶ Gallie, W. B. 'Liberal Morality and Socialist Morality' in Laslett, P. (ed) *Philosophy and Society*, 1st Series, Oxford, Blackwell, pp. 116-33, (1956).

³⁷ Marx, Karl. *Critique of the Gotha Programme*, (ed) C.P.Dutt, International Publishers, USA, (1970), pp.77-81.

education, wealth and culture are reduced by treating classes unequally.³⁸ Whatever the case may be the modern legislative concept of equality of opportunity in employment is a superficial reflection of a much more fundamental debate. Rather it is a concept of inequality where in a society that declares it is committed to meritocracy, the value of material incentives, initiative, personal attributes, wealth and education are allowed to exercise their full power at the point of entry to the market place of employment. It is an aspect of justice that is politically and ideologically specific to the dominant relationships of modern capitalist society. Liberty is held, not to be some form of social ideal couched in terms of a comprehensive sense of political and economic equality, but a liberty that is compatible with free and competitive participation in the market place. Equality of opportunity does not seek to challenge the dominant mode of production nor the social relations that depend on it. Its' objective is essentially to prevent those competing in the market place from having their liberties unnecessarily restricted and thereby finding themselves at an unfair disadvantage. Its conceptual framework is the promotion of confidence in capital. This is at the centre of equal opportunity theory in terms of its legislative objectives in practice.

In modern times it has been a notable feature of western bourgeois democracies that it has been only when those who were deliberately prevented from fully participating in the market place expressed their discontent violently that governments' felt obliged to respond with anti-discrimination legislation. The classic example of this was the response by the US government in the face of severe civil conflict over the denial of civil rights for blacks. By introducing legal codes of practice in the form of equal opportunity laws two objectives were sought. Firstly political discontent was appeased by this passive intervention in the market place and secondly a sense of legitimacy and expectation in the prevailing mode of production and social relations were reinforced.

For the concepts of liberty and justice associated with this to be effective the benevolent introduction of equal opportunity laws were seen as essential by the more liberal or incisive representatives of bourgeois democracy. The example of black struggles in the USA and the Civil Rights Movement in the North of Ireland are not dissimilar examples.

³⁸ See a useful discussion on this by Paul Hirst, pp. 41-55, in *Inequalities Conflict and Change*, OUP, 1976 (ed) A. Blowers and G. Thompson; and Richard Lichtmann, 'The Facade of Equality in Liberal Democratic Theory', Univ. California, Berkeley, *Inquiry*, 12, pp.170-228, 1969: USA.

The latter may be seen as a direct refraction of this struggle. The intention may be put as ensuring inequalities of wealth and power remained unchallenged and accepted as legitimate and or objectives to be positively pursued. To be successful this strategy requires a large degree of active and passive consensus that the state and its social relations are indeed legitimate ones. This is where the situation in NI and the US begin to diverge. In NI the pressure to sustain unfair advantages via religious affiliation on top of the mode of production required the states intervention in the market place and an overtly coercive apparatus to contain the violence against the institutions and character of the state. For fundamental changes to occur in an individuals or groups capacity to access the market place without deference to material sectarian relations had the capacity to undermine the character and institutional solidarity of the state.

The ability of legal codes to act as bonding agents within this context becomes increasingly difficult. The unresolved issues of nationality and unity constantly explode the process due to the close correlation between political power and employment. The unemployed blacks in the ghettos of Harlem or the rural Southern states may feel distanced from political structures, but as a body, on their own, they do not have the power to challenge radically or change the dominant political and economic interests which control the US. In NI, the forces are much more closely balanced. Loyalism that relies on the British guarantee would face a radical challenge to Protestant hegemony if this were removed. However it was in the USA that the strongest equal opportunity laws were introduced. As the Civil Rights Movement sought to integrate those considered to be arbitrarily disadvantaged they found allies in the white US liberal establishment. The latter's objective was to promote a concept of justice, totally compatible with the market place and integral to the "American Dream". The results were a set of laws introduced under the Civil Rights Act 1964 (CRA), which countries such as England, over 35 years later, still balk at.

As the British government embarks on its most ambitious programme to date with the support of Irish and American governments to accommodate Catholics and nationalists within the context of the prevailing status quo, rights, safeguards and equality of opportunity are recognised to be a lynchpin in maintaining its northern edifice. This thesis by reference to case study and analysis of the implementation of successive Acts will challenge the validity and possibility of such an enterprise. As with many political

enterprises in NI it is important to realize from the outset that Acts of Parliament are frequently drafted to mean all things to all people. The following comments by the prime minister Tony Blair and Martin McGuinness of Sinn Fein conveniently juxtapose the fact that the latest Agreement does not reflect a common purpose in terms of ultimate political objectives and principles.

“I believe in the United Kingdom. I value the Union none of us in this hall today, even the youngest is likely to see Northern Ireland as anything but a part of the United Kingdom ... Unionists have nothing to fear from a new Labour government ... The government will not be persuaders for (Irish) unity”.³⁹

And the succinct conclusion from Sinn Fein’s Martin McGuinness that “The union has undoubtedly been weakened ...”⁴⁰

While all focus on the long game the immediate and fundamental question as to whether an internal reconciliation within the Union can be achieved remains unresolved. The focus of the thesis will be to explore whether any such resolution is possible in the field of equality in the following chapters.

Structure.

The thesis begins with a historical introduction that outlines the origins of the “Orange State” and its overt policy of political and religious inequality. It will be demonstrated that with an ethos of loyalty to Ulster regarded as paramount, Stormont exercised its prerogative to reward loyal Protestants. Catholicism on the other hand was identified with disloyalty and nationalism to the state. The exclusion of Catholics and nationalists is illustrated by reference to NI’s regional economic strategy, which reinforced religious and economic inequalities.

The response by the British government to the Stormont regime is examined within the context of the development of an equalities agenda during a period of sustained civil conflict. The gradual evolution of British equal opportunities policy is compared with the experience elsewhere, particularly the USA. The American experience figured largely in the debate upon which British legislators developed the 1976 Fair Employment Act (NI).

³⁹ Tony Blair, Prime Minister, Belfast, 16th May 1997, Public statement and NIO press release.

⁴⁰ Sinn Fein, Ard Fheis, 18th April 1998.

While reference and example are drawn from a period stretching back to 1921 the primary focus of the thesis is from the late 1960's to the introduction of the 1976 Act to its replacement by the 1989 Act. Further comment is made from 1989 to the present to offer a contemporary context for the 1998 Review (*Draft Fair Employment And Treatment Order 1998*), the *Belfast or Good Friday Agreement*, 1998 and the government's *Partnership for Equality* (March 1998) White Paper proposals. The history of these legislative changes and proposals offer a key context for the case studies and assessment of the performance of the Fair Employment Agency (FEA). The evidence from these enquiries is given to indicate the extent and practice of discrimination on the shop floor and in the public sector. The weak response by the FEA and the impact of the Irish-American campaign for stronger and more effective powers during a period of major and murderous upheaval is used to assess the commitment and nature of the British response.

It is argued that throughout the 1970's and 1980's British policy was one of containment. The more recent proposals (the Good Friday Agreement) it is suggested, demonstrates that British policy while now one of overt accommodation with nationalists and republicans remains the same, containment within the union for the foreseeable future. The significance of this for equality of opportunity is commented upon in the conclusions. However a detailed analysis of developments since the Good Friday Agreement is not offered. This is beyond the remit of the thesis. There are also several relevant proposals that have not been implemented so their consequences remain unknown e.g. the Patten Report on Policing – *A New Beginning*, (September, 1999),⁴¹ the attempts to relaunch the New Targeting Social Need policy through the NI Assembly (2001).

The penultimate chapter does however comment on several developments beyond 1990 that are relevant to the thesis. This helps place current, past developments and failures in the pursuit of equality in employment within the context of political developments under the peace process, - the economic situation, political devolution and the transfer of powers to the NI Assembly and the long-term strategy of the British government. Does the future remain Orange? Is the partnership with Ireland in this enterprise a fair weather green one or will the internal dynamics of the North again force both governments and their American sponsors to go beyond the immediate narrow horizons? These wider questions

are left for others to address as contemporary history develops.

The difficulties and challenges faced by this enterprise are underlined in the earlier part of the thesis where it is argued that the formation of the “Orange State” required inequality to be publicly expressed and demonstrated by widespread sectarian employment practices as essential to maintaining the unionist class alliance. This thereby became the very fabric of its character and identity. This is followed by assessing the response by Westminster when confronted with conflict initially driven by the pursuit of civil rights objectives that many of Britain’s political elite’s accepted as credible and legitimate. The middle section of the thesis provides case studies of inequality in employment drawn from the private and public sectors to indicate the strength and depth of inequalities and their overt identification with the health and well being of the Orange State. The examples also demonstrate the failure by Direct Rule to fundamentally alter or reverse the strength of these overall and local patterns of employment. The issue of public housing provision is also examined as many commentators regard the denial of such provision to Catholics as the touchstone that started the current conflict.⁴²

The role of the FEA is assessed with reference to its origins and operational practices. It is argued that it failed both as an administrative arm of British equal opportunity legislation and as a British political instrument for demonstrating that fundamental reforms were possible within NI. Reference to the various legislative acts and their impact are made to illustrate the point. This also provides a powerful context and rationale for the response by the British government to internal conflict that was not dissipating and to the growing direct influence of the Irish-American lobby. The most direct expression of this being the MacBride Principles Campaign.⁴³ This Campaign led to a more sophisticated approach from the British government than the blind alley support of unionism – whether this was in the form of ever more repressive legislation or simple financial subsidy – being adopted. The strength and potential of these reforms are examined. The final chapter summarises

⁴¹ *A New Beginning: Policing in Northern Ireland*, The Report of the Independent Commission on Policing for Northern Ireland, “The Patten Report”, September 1999, HMSO.

⁴² See for example, Farrell, M. (1976), Tomlinson, Mike. & Rolston, B. & O’Dowd, Liam. (1980), Bell, Geoffrey. (1976).

⁴³ See Chapter VIII. The *MacBride Principles* campaign began in 1984 and was promoted by Irish-American groups to challenge American investors to adopt a range of equal opportunity principles in NI.

the conclusions of the thesis with reference to contemporary political developments and challenges that include the restatement of equality of opportunity, fair treatment or merit as part of the Good Friday Agreement.

The production of social facts.

The intensity of struggle in relation to what constitutes a “social fact” for researchers and politicians in NI reflects the experience of generations of conflict where there is a strong need to constantly assert a British or unionist view that seeks to legitimise the state and its institutions. The data presented in this work may be seen as contributing to controversy in a field where the ground for agreement remains narrow. In this context “facts” tend to be evaluated as participants in an intellectual and political struggle that may or may not be successfully utilised to question or reinforce the objectives of British rule. On occasion dispute over the relevance of such facts can become matters of international dispute affecting the standing and integrity of the states institutions and processes.⁴⁴ Thus the pursuit of ‘truth’ in NI is heavily influenced by the prevailing sharp dichotomies. The potential for agreed outcomes are therefore restricted particularly when the subject of research includes matters of material interest to the character and future of the state. The sociological concept of value free research becomes severely exposed as an alien product in this environment thereby making such notions as “political arithmetic”, futile models for evaluating critical areas where the state and its institutions are not regarded as impartial arbiters of social policy.

The use of applied statistics, the arrangement and description of data, the conclusions derived from log linear, regression and correlation analysis in areas considered vital to the hegemonic view by the state become an issue not wholly anticipated by standard textbooks. The relationship between variables can take on a highly charged political context. While the social scientist may argue that he or she is engaged in an assessment of “best fit” or closest correlation between the data sets in order to complete an analysis NI is rarely a “value free” zone.⁴⁵ The analysis of social structures and processes are constantly given a context that emphasizes the importance of social analysis within the context of the

⁴⁴ See Chapters IV and VII for a detailed discussion.

⁴⁵ See Yeomans, K.A., *Introducing Statistics*, (1977) Vol.1., Chapters, 2, &5, *Applied Statistics*, (1979) Vol.2., Penguin Books. Both volumes were originally published in 1968.

social meaning and processes that produce the actual data. The coefficients of correlation may be placed in a highly politicised context that is singularly relevant to the publication of particular data sets, the suppression of other statistics, their interpretation and utilisation. Thus while the researcher endeavours to deduce the significance of these correlations and reach conclusions the production of these evaluative techniques are *reasons for or against* a particular point of view. As such their significance is not wholly the differences they may signify but the interpretation and context by which inferences are drawn from those that are made available. Their significance is enhanced by the decision making processes that led to their inclusion as the subject of study in the first place. The techniques of applied methodology become in themselves part of a process that has been influenced by an interaction with other “social, historical and ideological product(s) and not merely a collection of neutral techniques.”⁴⁶ Research into the degree of interplay between religious identity and other variables such as access to employment, attainment of particular skills or presence in specific areas of employment become powerful sources of contention.

The production of ‘pure facts’ then presents particular problems for researchers in NI. The researcher is an actor in a process that subjects quantitative methods and statistical output to the utmost political scrutiny. More often than not, research will be considered to have a political objective or at least political consequences and outcomes. This in turn can effect the choice of study and its objectives. While research in NI is not immune from the normal pressures associated with competition for funding, grant aid, commissioning, and critically choice the situation is much more complex. For example if the commissioning agent is part of the institutions of the state with a role in legitimising its processes then the emphasis on securing a particular outcome is great. Thus in the case of the FEA where the primary ethos and policy framework was one of conciliation as opposed to vigorous enforcement, the choices made have had a significant bearing on the likely outcomes and the purpose to which research may be utilised. For example the 1987 SACHR *Report on Fair Employment*, noted the FEA accepted “that it is sometimes willing to tone down the expression of its findings in order to retain the co-operation of the employer”, and that a board structure “is also a weakness because the need to compromise interests is antithetical to setting a coherent policy. Cloaking individual decision makers in anonymity

⁴⁶ Irvine, John., Miles, Ian. & Evans, Jeff. (eds) *Demystifying Social Statistics*, (1979), Ch. 4., ‘Eugenics and

fosters irresponsibility, encourages delay, and creates difficulties for efficient management”.⁴⁷ Thus any research in a vital area such as this cannot but become a part of a wider conflict where the policy of commissioning agents such as the FEA can and will be superimposed thereby compromising the integrity of the research. The historical analysis of the founding of NI offered in Chapter II provides an essential context for interpreting the data presented in this research and the disputes associated with some of the material.

The intensity of disputes over research findings and their overt links to the nature and character of society usefully illustrates Whyte’s (19991) finding that the problems of NI make it difficult to achieve consensus on the barest of facts concerned. One example was the research by Queen’s University academic Paul Compton.⁴⁸ Beginning from the position that the FEA had failed to “prove that discrimination on the grounds of religion is systematic and widespread” and was engaged in myth making to justify its existence he asserted other factors were responsible for inequalities. He argued that “the high incidence of Roman Catholic unemployment largely emanates from certain characteristics that are inherent to that community and which are not entirely compatible with the maximisation of job opportunities and the minimisation of job unemployment”. In particular these were geographical location, numbers of dependant children and the overrepresentation of Catholics in the in the social classes of high unemployment.⁴⁹ Compton considered the difference in family size in particular accounted for 50% of the difference in unemployment levels. On this basis he projected forward to the year 2000 the 1975-76 fertility and mortality rates and concluded that,

“because of the marked difference in the rates of natural increase, equality of unemployment rate could only be brought about by substantial discrimination against Protestants. On the other hand, the Roman Catholic unemployment rate could be brought down to the Protestant rate of 3.1 per cent without resorting to wholesale discrimination against Protestants if 14,600 of the net increase in the size of the Roman Catholic male population of economically active age were to emigrate, leaving 6,400 of that community unemployed in Northern Ireland ... In

the Rise of Mathematical Statistics in Britain’, Donald MacKenzie. Pluto.

⁴⁷ SACHR, (1987) *Report on Fair Employment*, pp.120, 155.

⁴⁸ Compton, Paul. ‘Religious affiliation and unemployment in Northern Ireland’, (unpublished). A published version was produced in *The Contemporary Population of Northern Ireland and Population Related Issues*, (ed). Paul A. Compton, (1981) Institute of Irish Studies, Queen’s University Belfast.

⁴⁹ Compton, Paul. (1981), pp. 3-15. All references are from the unpublished version that was widely circulated among academic circles.

the absence of considerable roman Catholic emigration, the unemployment rates of the two denominations could only be kept identical by artificial devices which caused the Protestant community to bear the brunt of unemployment, somewhat unfair, one would judge, in view of their temperate and sensible reproductive behaviour”.⁵⁰

The problems with this approach are that it ignores the influence of history, power and prejudice. For example the recognised sectarian spatial divide in NI is the River Bann. This marked severe differentials in employment and industrial location to the detriment of Catholics and as is argued in this work was reinforced by Stormont’s regional and economic policies. Secondly the argument for dispersal fails to explain the existence of significant employment inequities in places such as Belfast. Here again access to employment is influenced by questions of personnel safety and a hostility by employers and employees to the recruitment of Catholics. In the context of such factors and the express objective of sustaining a Protestant class alliance by the state it is not surprising to discover Catholics occupying to a greater degree the lower social classifications. The argument also contains a number of value judgements that have as the basis of the research that the “innate” characteristics of Catholics are such that they are the author of their own misfortune. The starting point for this is the position that the labour market in NI has a fixed number of opportunities for Catholics. Hence the need for their emigration. The relationship between family size, poverty and hardship is well documented in Britain.⁵¹ Compton however does not assess how the labour market has been created, the significant variations in labour market opportunities and to what degree the nature of this labour market entrapped individuals in unemployment. In short, how under the Stormont regime did a situation arise that found Catholics with the highest rates of employment, living in some of the worst housing conditions and deprived of universal suffrage? Could this have influenced the concentration of Catholic working class males in semi-skilled and unskilled employment? What role did regional economic policy play in exacerbating these inequalities and should it be assumed, as Compton does, that infrastructure and investment policies are static entities that cannot be developed in a manner that would change the labour market?

⁵⁰ Ibid., pp.17-18. Compton’s views gained such influence that he served as an academic advisor to the Standing Advisory Commission on Human Rights *Report on Fair Employment* in 1987, which reflects this view – in a much toned down version- as a potential contributory factor.

⁵¹ Townsend, Peter. (1979), *Poverty in the United Kingdom, A survey of household resources and standards of living*, Penguin Books.

In addition Compton's research methods would have some difficulty explaining the high economic growth rates experienced during the 1990's of neighbouring Catholic countries such as Ireland. It may be that the historical weight of Empire exercised some influence on the production and export of wealth and its peoples. A methodology that relies on "innate abilities" has some difficulty in explaining such phenomena. Thus as with many facets of Irish economic and social history "Truth" in NI is very much a matter of interpretation.

The challenges facing research in NI then may be summarised as difficulties in securing consensus on the production of "social facts" and interpreting their relevance; the whole commissioning process where choice of research and researcher may be influenced by a specific agenda; the ability to gain access to original and unique sources of data; the ability to publish any conclusions may be directly hindered by the commissioning agent; and finally the threat of judicial action by those who do not share the views or conclusions of the researcher particularly where the merits of a given organisations ability and capacity are questioned or exposed to public scrutiny.

Methodological problems in researching the work of the FEA.

This research encountered several significant problems. They included the question of access to data. For example questions asked in the House of Commons by MP's to elucidate on FEA enquiries inevitably produced little detail. This in turn required securing access to data via a variety of sources in order that original data could be introduced to compare against the presentation of "facts" in published FEA versions and government policy statements. It also required a range of interviews and correspondence with participants who did not necessarily identify with the objectives of the FEA and were highly critical of its workings. This in turn produced access to unique data sets in terms of quantitative material, unpublished correspondence and papers that inform the interpretation presented in this study. The process of commissioning investigations and the manner by which data for analysis was selected by the FEA is assessed. It is argued that as a result of statements contained in official FEA records that a political process and 'understanding' existed within the FEA membership that led to the choice, range and emphasis of investigation work. At its most crude this could be presented as a religious balancing act but due to the emphasis on conciliation as *the* policy in implementing the 1976 Act it is argued that a clear process of decision making left the administration of the

Act adrift and effectively repealed. This is a matter of *interpretation*. In the case of the FEA access or denial to original data and publications directly influences public perceptions and the credibility of any formal findings from investigations. This relationship is explored and the consequences outlined for the FEA in Chapter VII by reference to a range of documents produced by Agency staff as part of the internal struggle to advance reform within the Agency.

A second problem encountered in this research involved interpreting data where disputes existed over conclusions between the researchers and the commissioning agent i.e. the FEA – over major equality investigations such as the civil service and engineering enquiries, matters that still remain unresolved. Another feature was the lack of consensus over what constituted factual findings within the FEA as each set of data outputs was frequently placed within a context that questioned the motivation, skills or abilities of researchers. In one major incident for example researchers were subject to the threat of libel if they published findings deemed to be unacceptable to the FEA. Thus in providing an account of this incident the author has to confront the fact that charges of a lack of objectivity may be leveled given the authors role as a participant in the original research. The matter of interpretation is invariably given a political context that facilitates its dismissal from legitimate discourse by those who act as guardians of prevailing opinion and ideology.

This represents a third problem for the research. For the researcher as a participant in the process of commissioning and carrying out research that contributed to the internal and external challenges facing the FEA is in effect a participant observer. It is important in this capacity then to explain the position adopted by the researcher as an actor in this process. This is presented in Chapter VII alongside the views of other participants including FEA members to present a context that enables the presentation of two opposing views. One view was the official policy of *conciliation* in regard to employers and investigations and the other, the position advocated by the researcher and colleagues was a position of active enforcement and *prosecution* of the 1976 Fair Employment Act. Where the author has been a participant observer as researcher, trade union representative or advisor to various institutions this is indicated by reference and supporting material. This is further tempered by reference to contemporary events, and the citation of other commentaries by those directly engaged. Chapter VII for example presents the experience of internal dissent

within the Agency over policy and practice that engaged a range of independent participants and external commentary outside the Agency. While the views of those at the heart of this struggle are given where possible by reference to particular documents the origin of all sources are not acknowledged. This is necessary to protect the position of several sources. However when such sources are utilised sufficient evidence is provided to enable the reader to interpret the perspective given and assess the validity of the interpretation. Thus while unique insights are offered giving a richer and more detailed picture of the nuances, subtleties and shades of meaning in an area fraught with conflict over interpretation more general data is provided. This includes for example official research such as SACHR's reviews of religious and political discrimination, government publications and policy reviews thereby offering a pluralism of research that provides a comprehensive and rounder picture of social reality in NI.⁵²

In order to manage these issues in the research a methodology is adopted throughout of assessing official research output and findings from a range of different angles and information. Thus in the case of individual equality investigations, rather than simply accepting as given data and findings within the published reports – where they are available - the context for the production of such findings is assessed. This involves reference to decision-making processes within the Agency, the 'religious balancing' process taken in the selection of areas for research and finally the methods by which the production of data and results were managed. This linking of data includes analysis of official survey data, reference to published works and enquiries, unpublished material and findings, the application of personal knowledge are all brought to bear in a critical interpretation of official findings, policy frameworks and direction in the field of equality of opportunity. This includes for example comparative data that illustrates the degree of differential employment patterns with reference to specific employers and occupational data derived from official sources; historical records drawn from the Public Records Office; unpublished works and correspondence derived from a range of exchanges and papers produced as a result of disputes and investigations carried out by and or commissioned by the FEA. This material is assessed within the prevailing situation of an unstable society and the response by government to demands for legislative reform. A

⁵² Standing Advisory Commission on Human Rights, (1987) *Religious and Political Discrimination and Equality of Opportunity in Northern Ireland, Report on Fair Employment*; SACHR, (1990) *Second Report*; SACHR, (1997) *Fair Employment Law in Northern Ireland: debates and issues*, Vols. I - III.

number of primary sources are introduced derived from the authors own research activities and a range of papers provided by those engaged in the field of equality of opportunity. A number of unstructured interviews with individuals directly effected by acts of discrimination are presented as have particular interest groups such as those engaged in the *MacBride Principles Campaign*. The origins of an individual complaint or objective of a campaign has been placed in context by reference to the employers and or government's viewpoint. This is supported by reference to primary and secondary sources such as correspondence, evidence and public statements. The particular insights offered by this approach enable the material studied to be given a context that seeks to explain why particular decisions where taken or indeed avoided by government agents with the responsibility for enforcing fair employment legislation. This work provides a body of evidence that recognises the difficulties associated with a region where the possession and access to data is closely guarded, this mitigates against the development of a consensus around "social facts". This research is invariably a contribution within that context.

CHAPTER 2. AN HISTORICAL CONTEXT.

Introduction.

This chapter outlines the historical context of Northern Ireland's foundation. An overview of the political conflict, often violent and unforgiving, that has been a consistent and institutionalised characteristic of what became known as a "Protestant state for a Protestant People" is provided. The popular catchword of "No surrender" will be seen to be the idiom of a state and its people overtly committed to sectarianism in the use of physical, economic and social patronage. A stance regarded as *the* "Protestant birthright".

The degree of inequality in employment, investment and political gerrymandering are exemplified to illustrate the manner by which the Stormont regime secured its present and future until the imposition of Direct Rule from Westminster. Consolidating inequality and promoting the position of Protestants in employment, securing political power through institutionalising prejudice and a denial of universal franchise became fundamental tenets of the new state. The Stormont regime exercised such powers with the knowledge and support of the British government that funded and approved much of the oppressive legislation and their instruments of administration. This included the Stormont parliament, a partisan police force:- the RUC, including the B and C specials; special and emergency powers to arrest, search and hold suspects; trial without jury, and the "supergrass" system. These powers reflected Stormont's political attitude towards Catholics who were regarded as fundamentally disloyal and opposed to the existence of the state at all levels in a very narrowly defined society that would brook no challenge to its exclusive Protestant remit.

The development of post-war planning economic and social strategies is examined with reference to their role as an instrument for consolidating power and privilege. The impact of these policies are outlined in order to provide the physical context within which what became known as the East-West Bann spatial line for

investment opportunities and unemployment differentials were consolidated.¹ The description of the practices and development of the Stormont regime from its inception to the early 1970's offers an historical context essential to later chapters and the material evaluation of equality of opportunity policies in practice. It indicates the size of the challenge and the cultural milieu within which the application or discourse on such aspirations would inevitably conflict.

Birth of a nation.

The origins and creation of the Northern Ireland (NI) state have been comprehensively documented from many perspectives since the outbreak of open warfare and conflict.² Such works have only been outpaced by a plethora of articles and particular studies on law, Protestants, legitimacy, psychology and identity, conflict and war. The government's sponsored Northern Ireland Economic Council has been the most consistent commentator on the local economy with over 114 papers and reports.³ In the face of an abundance of material documenting violence, murder and constant crisis it is argued that the rationale of equality or its principle at least in terms of access to the benefits that employment can bring was one that did not find fertile ground. Rather inequality was deemed to be vital for the Protestant State to protect its' partisan base. More it was woven into every fabric of its being and ideological justification. An indication of the strength of the spirit that has underwritten loyalty to Ulster is usefully encapsulated by the following quote from *Unconquerable Ulster*:

"The Loyalist type in Ireland is a well set up individual, with clear, straight, honest eyes, a clean skin, and well formed features such as are found in the case of human beings of the highest type. His hair is usually fair, or if dark, it has a fine texture. This is all as plain as daylight, and everyone knows it... Every Loyalist knows the Nationalist type - a person with thick black hair, or hair of a pale mouse colour with shifty or dreamy eyes, a complexion -

¹ This refers to the River Bann as a recognised socio-economic spatial line for inequality in investment.

² Barritt and Carter, *The NI Problem*, OUP 1972; Farrell, M. *The Orange State*, Pluto 1976; Gibbon, *Origins of Ulster Unionism*, 1975; Buckland, *The Factory of Grievances*, 1979; O'Dowd, Rolston and Tomlinson, *Between Civil Rights and Civil War*, 1980, Burton, F. *The Politics of Legitimacy* (1978); Fields, Rona M. *Society Under Siege*, (1976), and so on.

³ Northern Ireland Economic Council, e.g. 'The Economic Implications of Peace and Political Stability for NI', Occasional Paper (June 1995); 'NI and the Recent Recession' Report 104, (August 1993); 'Research & Development Activity in NI', Report 101, (May 1993); 'Demographic Review' (March 1995).

among the men - which is curiously dull or very red, and features which proclaim it as belonging to a low order among civilised peoples".⁴

Pim's work carried a foreword and endorsement by Edward Carson, the founding father of the Stormont State and leader of the anti-Home Rule Bill agitation and at a later stage a member of the English governments' Cabinet. The books' popularity was such that it ran to three editions from November to December 1919. A contemporary illustration that indicates similar sentiments remained at the end of the 20th century was the poster campaign by the Community Relations Council, a body established by the NIO in the 1990's. It ran a poster illustrating the top of a man's head focusing on the distance between his eyes. The slogan ran "ONE OF US? OR ONE OF THEM? IF YOU CATCH YOURSELF THINKING LIKE A BIGOT CATCH YOURSELF ON". The message reflected the still held popular Protestant view that religious identity could be determined by the distance between the eyes, in this case one inch. Some local wit had defaced the latter part of the slogan by sticking on after "BIGOT", "JOIN THE RUC". The poster appeared in Belfast in 1994 as part of the NIO's attempt to question popular bigotry.⁵ It indicates that popular Protestant ideology and attitudes have travelled a very short road since 1919. The graphic trail of loyalist murders of Catholics throughout the latest period of conflict adds the mute testimony of their victims to this. In short a consistent thread to this research is the evidence in employment and society that a Protestant world view which is a loyalist or unionist one is not dissimilar to a supremacist or at times racist one. It is an element, however diluted in its presentation, that informed political and economic developments and indeed the murder and oppression of "disloyal elements". It was also a central ingredient to the Protestant class alliance that was vigorously endorsed by the strong relationship between fundamentalist Protestantism and the Orange Order. Catholic bigotry or sectarianism is not documented as it is the character of the Protestant state, the power relationships within it and their consequences that led to the equality laws that are the subject of the study.

The industrial and agrarian history of economic development in Ireland meant that

⁴ Pim, Herbert Moore. *Unconquerable Ulster*, Belfast, Carswell & Son, 1919.

⁵ Authors site visit; see also Rolston, B. (1995) *Drawing Support 2, Murals of War and Peace*, Beyond the Pale, Belfast.

on partition the balance of power in NI rested within the unionist industrial North-East secured by a militant class alliance. Then as now the British public purse was vital to the economy. The loyalist heartland in and around Belfast drew its strength from employment in the former linen factories, mills, shipyards, manufacturing and engineering enterprises. The large-scale development of service industries in terms of public services was a development that became particularly significant under Direct Rule and remains so. As public administration developed in line with increasing education access and attainment new administrative skills and careers were offered but again entry to key areas such as the civil service was restricted to those considered most loyal.

Both communities, Protestant and Catholic, were self consciously distinct, with mutual badges of hostility defined by dates, place, religion and competing senses of identity. Sectarian rioting across these spatial lines has been a constantly recurring theme with each period throwing up its fiery preachers to encourage or lead the mobs.⁶ For example, the unionist *Belfast Newsletter* (5th September, 1857) warned about the threat of Catholics in Belfast:

" a mighty Romish movement is now in operation in this town to assimilate it to the degraded Popish towns of the South and West of Ireland Our object is not to inflame Protestant against Papist. We advocate the right of the poor and of the outcasts to have the Gospel preached to them on the streets".

The nationalist *Belfast Morning News* on the same day (5th September 1857) declared that to Catholics:

"street preaching seemed less the exercise of a religious right than an abuse of free speech. Its real object and aim is to insult the feelings of Catholics and deride their faith; to show that here in the midst of a population of 50,000 Catholics, there is a tyrannical, rampant and 'dominant' faction, struggling for mastery over those who do not agree with them either religiously or politically. That faction must be at their old work of division, disunion, and religious hate"

The above indicates that sectarian hatred and conflict fuelled by religious identity has always been an integral part of the Northern cultural psyche, something that is readily utilised to justify inequality and harsh treatment by the state. This 'gospel'

provided legitimacy for the Orange Order as a religious and political entity to give Protestants their organisational base within the workplace. It became the instrument to secure allegiance and prevent any dilution of the Protestant 'way of life' in key facets of rural, industrial, political and social life. The Order cemented the aspirations of the rural and urban poor into the economic and political aspirations of the indigenous unionist landed gentry and industrialists. The ever-present challenge of nationalism, revolution and counter-revolution, religious ideologies, cultural and economic competition, endemic sectarianism and rioting provided a self-perpetuating reinforcement for the need to hold and maintain. The contemporary Protestant labour aristocracy were the semi-skilled and skilled craftsmen who provided Ulster's shock troops in times of trouble.⁷ Gibbon notes that during this period as industry diversified and workers succeeded in gaining exclusive forms of training and access to employment - apprenticeships, premiums, closed trades etc.-, Catholics became progressively excluded by active policies of discrimination. Orange Lodges in the factories sought to promote and protect the Protestant position and to specifically exclude or displace Catholics. The unionist elite thereby had a most convenient and economic mechanism for the dispensation of patronage and securing loyalty to Stormont and Britain.

Gibbon concluded, "Orangeism gradually became the median for the maintenance of political control through nepotism".⁸ Members of the Order would also provide a ready and willing source of recruits for the wide variety of special forces ranging from the 19th century Protestant Defence Association to the more recent and infamous B Specials, the RUC Reserve, the UDR, to the UDA and UVF. Economic patronage and political power within the protection of an imperial Britain, sustained overt religious and political hostility to Catholics as nationalists. This confidence in power saw Protestants comfortably through three Home Rule Crises from 1886 to the formation of the Stormont regime in 1921. It was also reflected in the scale of a new parliament house built in East Belfast. A grandiose act of visible assertive and imperial supremacy. A built in Protestant majority was secured by partition of the border along religious lines that ensured the three other

⁶ cf. PRONI, *Report of the Belfast Riot Commissioners*, PP1887 XVIII, Report, p.4.

⁷ cf. Gibbon, Peter. *The Origins of Ulster Unionism*, (1975) Manchester University Press, CHIV for developments throughout the 19th century.

counties of Ulster with Catholic majorities were excluded. They became part of the new Free State.

The Protestant State 1922-45: Consolidating Inequality.

Stormont was officially consecrated by King George V on 22 June, 1921. Westminster reserved key sovereign powers such as the post office, armed forces, and taxation. Otherwise Stormont was able to make laws for, "the peace, order and good government". Local constituencies could return twelve MP's to sit in the House of Commons. A small number of public servants transferred from the South as permitted under the 1920 Government of Ireland Act. The Ministry of Home Affairs for example, contained 42 out of 187 staff who had exercised this right by 18th January 1924. The degree of vigilance exercised to keep out Catholics considered unwelcome or disloyal may be discerned from the following incidents.

Stormont's Cabinet Secretary, W.B. Spender received a letter on 18th January 1924 from Mr. S. Watt, the Permanent Secretary to the Ministry of Home Affairs. Watt confirmed, "that we have only 4 Roman Catholics in the whole office. They are not in any way employed on confidential work". Another incident perhaps more akin to caustic burlesque than good government indicates the pervasive atmosphere. A worker transferred from Dublin used a semi-colon in official letters. Representations by an unidentified senior figure called for an investigation, as this was considered highly suspicious. Spender was eventually able to report, "On my explaining there was nothing sinister or papistical about it, it was allowed to pass".⁹ The Chairman of the civil service selection board also reassured Spender that "satisfactory references as to character and loyalty", would be sought before any permanent appointments were made.¹⁰ The transfer of responsibility for the prison service saw a dramatic change in its religious composition. Under the 1920 Act, there were 62 Catholics and 107 Protestants. Out of the 90 appointments made between 1922-24, 11 or 12% were Catholic. By the end of 1924 the number of Catholics had fallen by 62%, 39 (this included 10 females) staff out of 195.

⁸ Gibbon, Peter. 1975, p. 97.

⁹ Op.cit., F.C. Moore to St.Loe Strachy, 2 August, 1922, House of Lords Record Office, S/21/4/9.

¹⁰ P.R.O.N.I.CAB 9A/90/1, 11th January 1924.

By 1927, 94% or 215 senior Stormont officials were Protestant. By 1938 it had expanded to 3,113 reflecting the consolidation of the administrative arm of government. The 1930's also saw a period of internal sectarian wrangling that indirectly involved the Prince of Wales. Senior ministers and officials discovered one of Stormonts' groundsmen was a Catholic. Normally a straightforward matter this one had royal ramifications. The Minister of Finance, H.M. Pollock, in response to information provided by the chief whip, Capt. Dixon confirmed there were not one but two cases. The minister explained to the Chief Whip, "though I have as definite opinion on the subject as you have", a simple sacking wouldn't do. The difficulty lay in the fact that the man, "has an extraordinary war record, is a Sergeant Major, was in service of the Prince of Wales during the war and had full charge of his horse in France". On a recent visit the Prince had "recognised the man and spoke to him words of encouragement". Pollock pointed out, "I am sure when you realise all these circumstances you will see that would have brought us into great disrepute if we had removed him", and "what defence could we offer", to the Prince, "simply because he was of a different colour from our own".¹¹ The decision to allocate him a gate lodge however was rescinded.

In another example, Sir Dawson Bates, Minister of Home affairs wrote to the secretary of the Stormont Cabinet, Sir Charles Blackmore on the 14th August 1934. "I have heard with a great deal of surprise that a Roman Catholic telephonist has been appointed to Stormont and I think it would be most undesirable in future that you use the telephone to me from Stormont." On the 17th August, Blackmore confirmed, "the appointment to which you refer will not take place." Nor was the groundsman to be allowed to rest. On the 8th November 1934, the permanent secretary for the ministry of Finance expressed his concern to Spender and Blackmore that a deputation was to be made to the Prime Minister to remove the Prince's Catholic. Spender described this as a process of "vile persecution" but reassured them, "no Roman Catholic has entered the administrative ranks of our service," since he became permanent secretary. He added the number of Catholics in the lower posts, "is very far below the average that one would expect", and that amongst the labouring classes and junior clerical ranks the proposition was around

¹¹ Letter from H.M. Pollock, Minister of Finance to Capt.H.Dixon, Chief Whip, February 1934.

one in ten. In an examination for 70 typing vacancies, the week before, only one Roman Catholic or possibly two were successful. One would have expected the proportion to be 7 or 8 on the population basis". The recruitment and selection process reflected the tone and demeanour of the regime. As the Prime Minister stated, "I have always said I am an Orangeman first and a politician and Member of this Parliament afterwards ... all I boast is that we are a Protestant Parliament and a Protestant State".¹² And Lord Brookeborough the next Prime Minister (1943-1963) in his clarion call to the faithful on the 12th July:

"There were a great number of Protestants and Orangemen who employed Roman Catholics. He felt that he could speak freely on this subject as he had not a Roman Catholic about his own place. He appreciated the great difficulty experienced by some of them in procuring suitable Protestant labour, but he would point out that Roman Catholics were endeavouring to get in everywhere. He would appeal to loyalists, therefore, wherever possible to employ good Protestant lads and lassies".¹³

Or again that having thought out the "whole question carefully I recommended those people who are Loyalist not to employ Roman Catholics, ninety-nine percent of whom are disloyal ...".¹⁴

The Minister of Labour, John Andrews, felt obliged to write to the Prime Minister in 1936, refuting allegations that "excessive" numbers of Catholics were employed by the Unemployment Assistance Board. The Board had retained, "the irreducible minimum of Roman Catholics. A lower proportion might lead to the charge that no Catholics at all were able to secure posts in the Boards service, which would I think be undesirable." Fourteen out of the 118 staff were in fact Catholic on 24 January 1936. Four years service was required before anyone could be considered for a permanent position. In 1935, Catholics held 13 out of 73 temporary posts. Craig called for greater vigilance with the outbreak of war against Germany in 1939. To overcome the possibility of a shortage of Protestant women gaining temporary clerical posts - the assumption being they would be serving their country while Catholics stayed at home - the age of entry was reduced to 17 from 18. This, it was felt would ensure the "normal rule of putting forward to our

¹² Sir James Craig, later Viscount Craigavon, Prime Minister of N.Ireland, 1921-40, 24 April, 1934, Parliamentary Debates, N.I. Vol.XVI, Cols 1091-95.

¹³ *Fermanagh Times*, 13th July 1933.

¹⁴ *Londonderry Sentinel*, 20 March 1934.

Selection Boards about 80% to 85% Protestants and 15% to 25% Roman Catholics worked smoothly", by providing sufficient numbers of "suitable candidates".¹⁵

The success of this strategy was proven in a recruitment drive for 100 writing assistants when there appeared to be a "scarcity of suitable Protestant applicants", for "even on this occasion ... the number of applicants given jobs was in the ratio of more than 5:1", in favour of Protestants. The Prime Minister expressed particular concern over Agriculture, where there was one branch, "in which the percentage of Roman Catholics was very large indeed".¹⁶ The permanent secretary replied this was probably due to the fact the Ministry, "found it expedient to send them to this particular type of work". The jobs at stake were porters in the abattoir. The relevant minister, Sir Basil Brooke, complained "other Ministries had ... put pressure on him to accept a larger proportion than they themselves were prepared to take". Ministerial involvement also occurred over the funeral of a former staff member in the Ministry of Finance. The Cabinet secretaries, prime minister's office and Lords Glentoran and Hungerford all intervened when it was found that a man called Sloan, an official deemed a Protestant had converted back to Catholicism, shortly before his death. When this came to light at his funeral in 1940, Spender was obliged to inform all, that:

"It is true that ... he did not inform me of the change as I think he ought to have done, but I am quite satisfied that it did not in any way prevent him from carrying out quite loyally the fair and discreet policy which we have tried to observe on this very vexed question ... You may have noticed that the Presbyterian Minister attended his funeral".¹⁷

Ministers followed this up with a series of surveys to monitor 'Catholic infiltration'. An analysis of 1,922 temporary staff employed in every Ministry by February 1941, indicated a total of 284 (14%) were Catholic. The highest proportions were in education, 6 out of 25 recruits. The lowest, public security, where 5 out of 78 recruits were Catholic. A survey in 1943 showed that between June 1941 - March 1943 22 out of 158 temporary typists recruited were Catholic. A ministry of finance survey in 1943 assessed the number of Catholics at senior

¹⁵ Permanent Secretary, Dept. Finance to R. Gransden, Secretary to the Cabinet, PRONI, 22/11/1941.

¹⁶ Ibid.

¹⁷ Spender to Gransden, 20 September, 1940.

management level, from Assistant Principals to Permanent Secretaries. This covered five tiers of management including technical staff. Out of 597 staff, 37 were Catholic. Of these 24 were technical staff at the bottom of the management pyramid. None occupied the 44 Permanent and Assistant Secretary posts.¹⁸ By the time Stormont was prorogued in 1972, only one Catholic, in response to the reform crises that engulfed the North, achieved the level of Permanent Secretary, shortly before he retired.

The administrative arm of government then, faithfully reflected and applied an exclusive Protestant ethos as interpreted by the unionist Stormont regime. These policies and practices were carried out in the full knowledge of the Westminster government. For as Lord Hartingdon, junior minister to the secretary of State, noted:

"With regard to the employment of Catholics in the public service it should not be forgotten that broadly speaking, and though there are no doubt important exceptions, Catholicism is the religion of the masses and Protestantism of the classes and that it is almost inevitable that a large majority of posts requiring educated men to fill them should be occupied by Protestants".¹⁹

A briefing paper prepared for Malcolm McDonald, Secretary of State for the Dominions, by the Home Office and Sir Samuel Hoare stressed:

"It must also be borne in mind that the Catholics in Northern Ireland, belong, if not almost exclusively, at any rate predominantly to the poorer classes, so that the religious difference coincides with an economic difference".

They added:

"The accusation against the Government of Northern Ireland of religious discrimination is somewhat difficult to deal with. In one sense it is of course obvious that Northern Ireland is and must be a Protestant 'state' otherwise it would not have come into being and would certainly not continue to exist".²⁰

The same files show the Free State government under De Valera maintained a

¹⁸ P.R.O.N.I. CAB 9A/90/1/2.

¹⁹ PRO, London, DOF, 1938,45.

²⁰ Ibid, p.44.

constant exchange of correspondence with Stormont, Britain and the USA protesting at the treatment of Catholics and nationalists.

Planning and Prejudice.

In 1939 the unemployment rate was 20.2% which compared with a British average of 7.5%. War provided a brief respite, as NI became a staging post for American troops, and a labour, munitions and manufacturing resource for an economy on a war footing. By 1946, with the end of hostilities it was down to 8.9%, and by 1950, 5.5%. This experience was short-lived as unemployment rapidly reverted back to an average of two, three and on occasion nine times the British average. The crushing effect of this and consequent long term unemployment and the associated characteristics of poor diet, ill-health, poor housing, emigration and general poverty was unevenly experienced.

As Buckland related, the NI government found itself powerless in the face of imperial interests in trade negotiations with the South. The latter declined to offer the North a free trade agreement in direct exchange for handing back the Irish ports still occupied by the English. British prime minister Chamberlain, mindful of "anxieties over the international situation" wished to present an Anglo-Irish Agreement along with an Anglo-Italian Agreement, as evidence that peaceful means could bring success as "it would greatly add to the impression made upon the world. And it is very necessary that an impression of solidarity here should be made, and not least in Berlin".²¹ The Imperial Cabinet had brushed aside protestations with the disdainful question by Sir John Simon, the Chancellor of the Exchequer, "Are we never to be allowed by Ulster to come to terms with the South? Is the tail always going to wag the dog".²² England did however agree to meet any future NI budget deficit and guaranteed payments under the Unemployment Reinsurance Agreement as long as the trade agreement existed. Money for industrial development was rejected. The integrity of Orangeism was not to be diluted even on the eve of total war in Europe.

²¹ Imperial Cabinet Conclusions, 16 March, 1938, P.R.O., CAB 23/93 Sir Warren Fisher's minute, 7 March, 1938, T160/747/ 14026/04/1; PRONI.CAB 9R/60/3. Chamberlain to Craig, 8 April, 1938 cited in Buckland, 1979, pp.113-117.

With the decline in Britain's traditional heavy manufacturing industries and its post-war displacement as a major imperial power confronting the need to rebuild, British governments' looked to mobile and international capital. Unlike Germany, it could not benefit from a Marshall Plan to overcome the destruction of total war. Mobile capital and economic planning, the direct intervention by the state to direct, recruit and target capital resources was taken as given. Full employment was to be pursued by economic investment in the regions that in turn would reduce economic differentials, generate self-perpetuating growth thereby allowing the rate of direct subsistence to be steadily reduced. The planner's targets were high economic activity rates, a reduction in the rate of involuntary migration and the full utilisation of material and labour resources. The transferring or promotion of manufacturing industries to specific areas was an important corner stone of regional economic policy.

The three main methods used to promote this strategy in the UK were: a) differential investment incentives; b) physical controls (Industrial Development Certificates) policies that were designed to divert new factories into areas of high unemployment; and c) employment premiums, that enabled employers to recruit labour at a reduced cost to themselves. The cumulative impact of these incentives it was expected would be to generate a ripple effect on the wider economy. As a peripheral region, the North benefited greatly from this strategy.²³ The existence of Stormont as a parliament set it apart from other regions in the UK. The competition for public funds occurred at two if not three levels. Firstly against other regions of the UK. Secondly at the intra-regional level within the North itself. Thirdly as an economy in itself, it suffered from the overwhelming competition of the British economy, to which it was a minor provincial player. Within the North, the Belfast Urban Area, BUA, acted as the local centre with the rest peripheral to it. The split between the East, (overwhelmingly Protestant) and the West, (taking the River Bann as the accepted geo-sectarian spatial border), Catholic, in terms of industrial investment and employment strategy was and remains a matter of some

²² Ibid. op.cit Warren Fishers minute, p.113.

²³ See McCrone, Gavin. (1969) *Regional Policy in Britain*, Open University, George Allen & Unwin, and Holland, Stuart. (1976) *The Regional Problem*, MacMillan Press.

controversy.

In addition the inherent structural problems of the local economy were identified early on by Stormont's senior economic advisors - Isles and Cuthbert - who carried out the first comprehensive and influential economic survey in 1955. They identified the major differences between the economies of NI and GB as:

".. the lower general level of employment proportionately to the labour force, which involves heavier unemployment and therefore proportionately more people who earn no income at all, and (secondly) the relatively narrow industrial structure which restricts the number of openings for the employment of capital and labour at rates of earnings equivalent to GB and which thereby depresses the income of those who do earn. The general problem of economic development in the Province have to do with the causes and effects of the relatively large volume of unemployment and narrow industrial structure with which the relative lowness of income is associated".²⁴

They also stressed the pitfalls of conducting business in such a small and partisan community. They made the point that the ready access to decision makers by particular interests restricted the opportunity for impartiality were it desired, and created the scope for the exercise of direct patronage and privilege. They stated:

"There are various ways in which the Ministry of Commerce like the Board of Trade in Great Britain, can influence industrial location. In particular, it possesses the power of the purse so far as financial assistance in the establishment of new enterprises is concerned...it cannot by means of these controls force new enterprises to accept a particular location, but it can usually prevent them from being established where it does not want them".²⁵

This is at the very heart of the matter of planning and prejudice in NI. An earlier pre-war Industries Act had directly assisted 54 schemes. By 1955 they employed 6,500. Under the 1945 Act, 146 schemes employing 21,000 were assisted. In addition 45 projects employing 5,700 were created since 1945 without direct financial assistance under the new Industries Branch of the local Ministry of

²⁴ *An Economic Survey of Northern Ireland*, Belfast 1957.

²⁵ Isles, K.S. & Cuthbert, N. *Ulster Under Home Rule: A Study of the Political and Economic Problems of Northern Ireland*, Ch.7, p.161, (ed) T. Wilson, OUP, London 1955.

Commerce.²⁶ The 1922 Loans Guarantee Act provided Stormont with the role of lead negotiator and guarantor for private sector loans for capital projects. This played a vital role toward maintaining the shipyard industry. A similar policy in Britain was abandoned by Churchill in 1927 but continued in the North. This thereby placed Belfast yards in a more advantageous position to their competitors in Britain. Pollock, the Minister of Finance considered this is " a matter of life and death for our shipyards".²⁷

These early endeavours demonstrated the gains to be made by direct state intervention. Buckland however argues that success was limited and that the impact of the 1932 and 1937 New Industries (Development) Acts was primarily the attraction of Shorts & Harlands, established in 1937, employing 6,552. Claims that up to 12,500 jobs would be created were never realised. Employment in such firms peaked at 7,292 in 1949.²⁸ Between 1945-51, Stormont directly assisted 77 new investors locate in NI. Of the 111 advance factories built by 1964, 16 were established in the West. By 1968, 60,000 workers were employed in the 240 firms benefiting from public assistance. Less than 10% of these were located West of the River Bann.²⁹ The creation of Craigavon and the siting of the New University of Ulster in Coleraine as opposed to Derry upon the recommendation of Matthew (see below) added to the disparities along spatial sectarian lines.

By 1959, 75% of all firms sponsored by Stormont were located within 30 miles of Belfast. By 1973 the figure was 65%. By 1961 Derry had still only seen one new government aided factory located there with two others receiving assistance to expand their works.³⁰ An analysis of fully developed estates for potential economic development held by the local Department of Commerce between 1945-79 shows that the West (Fermanagh, Omagh, Dungannon, Cookstown) contained only 3.6% of the 803.75 acres available. Of these 4.25 acres were acquired between 1965-69;

²⁶ Isles and Cuthbert, *Economic Survey of N. Ireland*, p.381, Belfast, 1957.

²⁷ op.cit. Ibid. p117

²⁸ Isles & Cuthbert, *Economic Survey*, p.381, cf. Buckland, 1979, p.125.

²⁹ Dept. of Commerce NI, 1980; See Matthew Report, Appendix XII, 1963.

³⁰ Hall Report, *Economy of NI: Report of the Joint Working Party*, Appendix X, Table I, pp77-80; Appendix XII, p.83, HMSO, Cmd 446, Belfast 1962. For a useful discussion on this period see O'Dowd, Liam. (1980), 'Regional Policy ' pp.30-67, in *Northern Ireland, Between Civil Rights and Civil War*, CSE Books.

another 25.30 acres between 1970-74 while none were acquired during 1975-79.³¹ A long phase of passivity lasting until the 1960s following these early successes occurred. Between 1945-47 the prospective employment of new projects was estimated at 16,300 new jobs. By 1947-49 this had declined to 7,200 and by 1949-53 to 5,600. Unemployment rates were six times that of the average in GB. Employment remained concentrated around Belfast and a 25-mile radius that included the industrial towns of the Lagan Valley and Upper Bann. For example by 1947, over 75% of insured workers were insured at employment exchanges within 25 miles of Belfast and over 80% within 30 miles. Thus Stormont policy played a significant force in maintaining and reinforcing this pattern of employment.³² During the 1960's as GB saw a surge in the development of regional location policies and practices, local plans were commissioned by the Stormont regime. These plans provided the structural framework for the industrial and physical planning process for the North right into the 1990's. They included the Hall Report (*Economy of NI: Report of the Joint Working Party*, Cmd 446, Belfast 1962); the Matthew Report, (*Belfast Regional Survey and Plan*, Cmd.451, Belfast 1963); the Wilson Report, (*Economic Development in NI*, Cmd 479, Belfast 1965); and then for the 1970's, the *NI Development Programme, 1970-75* (Wilson, Matthew, Parkinson, Belfast 1970) and the Quigley Report, (*Economic and Industrial Strategy for NI: Report of a Review Team*, Belfast 1976) The latter report picked up from the earlier reports and laid down the strategy for the 1970's to the 1990's. Quigley's work was produced under the auspices of Direct Rule.

Hall stressed the predominance of Belfast and noted that outside a radius of 20 miles there were no concentrations of time served craftsmen among the unemployed. Only 1 in 9 of the unemployed outside the city were craftsmen as compared to a ratio of 3:7 in the Belfast area. Hall reminded indigenous capitalists that Britain was both a neighbour and a powerful competitor. While encouraging diversification of investment and noting 97% of all external investment by 1961 was located in the Belfast region he conversely rejected any policy of investment

³¹ Department of Commerce (NI) Landholdings 1945-79 as at November 1979, unpublished. The original analysis by the author appears in an unpublished FEA draft report on 'Regional Planning in Northern Ireland'. 1982.

³² See Buckland, 1979, pp.382,388.

dispersal. He believed the existing imbalance would assist the North escape adverse social and economic problems associated with excessive industrial concentrations in Britain.³³ Matthew's study was the first major physical, geographical and economic study of the North as a whole. It introduced the Belfast Stop-line to restrict urban expansion and from a limited terms of reference devolved into a full regional plan with a coherent strategy. Nine special Centres of Development, (Portadown, Lurgan, Ballymena, Larne, Carrickfergus, Antrim, Bangor, Newtownards, Downpatrick) were designated. As such they were targeted for accelerated growth and investment. A new city, Craigavon based on Lurgan and Portadown was to be created. Matthew believed Craigavon, would act as a "stimulus of the greatest value to the future economy and well being of the province as a whole". Its purpose was to become a major industrial complex", which could serve as a "symbol of regeneration within Northern Ireland". The job targets for these overwhelmingly Protestant areas was 30,500 by 1981 and 50,000 new houses.³⁴

Wilson was primarily responsible for economic strategy between 1964-75. Wilson's career would include becoming Emeritus Professor at Bristol University and economic advisor to South Africa as it developed its policy of apartheid. Wilson declared his objective was to achieve self-sustaining growth in order to reduce net annual emigration of 9000 a year and to shift away from reliance on declining industries. For example since the war direct government assistance had sustained 50,000 jobs or 30% of those employed. Comprehensive plans were drafted for Belfast, Craigavon, Ballymena, Antrim with other areas left in the hands of local authorities. Wilson saw the creation of and proximity of such economic centres to a modern industrial centre as essential to success. He opposed the dispersion of factories to peripheral areas. While praising the use of IDC certificates in Britain as a mechanism to direct companies to given areas (including NI), he recorded with praise the fact Stormont had never issued instructions to investors to locate in peripheral areas or locations they were opposed to.

Wilson noted that since the war, of the total number of firms opening, 70% of

³³ *Hall Report*, Appendix X, pp.77-80, 83.

³⁴ *Matthew Report*, Appendix XII, p.83, 1963, HMSO, Cmd 451.

those employed in concerns of 300 or more and 50% employed in 500 or more. Only 42% expected to employ less than 100.³⁵ Wilson considered location in small towns would be wasteful. The potential employment market offered by large hinterlands of small towns and villages was discounted. Wilson established job targets of 30,000 in manufacturing and services respectively for 1964-70. An additional goal of 500 construction jobs completed his extremely ambitious programme of 60,000 jobs by 1970. As with the previous six-year target of 18,000 jobs these ambitions were never realised.

Nationalist MP's and commentators constantly accused unionists of sinister plots of discrimination in housing and employment.³⁶ Stormont was charged with only directing new industry to unionist areas.³⁷ For example when two new factories were opened in Protestant Newtownards and Bangor in 1964 and 1967, nationalist MP's asked if the investor had been advised, "there are 1100 to 1200", unemployed in Fermanagh and an adequate supply of labour as opposed to only 375 unemployed in Newtownards.³⁸ In Bangor the nationalist MP for South Down compared the "manpower available in Newry with an unemployment figure of 2,500" as compared to Bangor's 200.³⁹ If nothing else these exchanges demonstrate that each side knew that economic patronage would be politically driven. This perception was encouraged by Wilson's own public beliefs. He dismissed the West as a region which had to pay the price of a "little transitional unemployment", if full employment was to be achieved in the East.⁴⁰ He noted that:

"There is no reason a priori why Catholics, who are one third of the population should have one third of the chairs at University, one third of the administration posts and so on, for ability and inclination together with the competition of the people from outside Ulster altogether, may dictate differently. As for business life, Presbyterians and Jews are probably endowed with more business acumen than Irish Catholics".

He added that:

"From any objective point of view it cannot be said that the grievances of the Catholics are very real. They have less to

³⁵ *Wilson Report*, pp.5, 31, 37.

³⁶ MP for Mid Derry, NI, HC, 7 April, 1965

³⁷ MP for South Armagh, NI, HC, December 1965

³⁸ HC, NI, 24 June, 1964.

³⁹ NI, HC, 24 October, 1967.

⁴⁰ "Devolution and Partition", Wilson, *Ulster Under Home Rule*, 1955, pp.189. OUP.

complain about than the U.S. Negroes and their lot is a very pleasant one compared with that of the Nationalists in, say the Ukraine Moreover, just as it is necessary to understand the "planter psychology" so it is necessary to understand the psychology of those who were supplanted. For generations they were the underdogs, the despised "croppies", the adherents of a persecuted religion who were kept out of the public affairs by the Protestant conquerors. They were made to feel inferior, and to make matters worse, they often were inferior if only in those personal qualities that make success in competitive life".⁴¹

It may be noted in passing that the current success of the Irish Celtic Tiger economy indicates that objective economic analysis comes in many guises. The views of Stormonts' leading physical and economic planner reflected the views of NI ministers. For example Brian Faulkner, Minister of Commerce, 1963-69, Minister of Development and the North's last Prime Minister recommended:

"Orangemen individually and collectively should interest themselves in the economic welfare of the community. I mean by that statement we should be anxious to find employment for our brethren".⁴²

He later proclaimed, "the Orange Order is the backbone of Ulster".⁴³ It was therefore not surprising to see nationalists reject the unionist view as expressed by Faulkner, that "the only thing which holds back individual development in the more remote parts of the country", is the lack of an adequate "pool of labour" (10 March 1965). Wilson for his part had reached the remarkable conclusion that in any case the existing pool of labour was too old to meet the demands of new industry. The good will to encourage or direct investors to areas with a large supply of Catholic labour was simply not there. This was recognised early on by those engaged to manage high profile projects such as Craigavon, a new 'rainbow city'. An English architect, Geoffrey Copcutt, who was recruited to deliver the new city resigned making a 7000 word statement in the *Irish Times*.⁴⁴ He regarded the linking of Lurgan and Portadown as the basis of a new city inadvisable. He suggested Derry was the obvious choice both as a centre for industry and higher education. Copcutt declared, the designation of Craigavon was a consequence of political and religious considerations and that if Derry were developed in its place,

⁴¹, Ibid., pp.208-209.

⁴² *County Down Spectator*, Bangor 17th July 1954.

⁴³ *Irish News*, Belfast, 13th July 1960.

⁴⁴ *Irish Times*, 15th August 1964.

"this would indeed be earnest of the sincerity of the desire to prepare Ulster for the 21st Century". He added, "Stormont on my brief but deep acquaintance has shown signs of a crisis ridden regime too busy looking over its shoulder to look outwards". He further noted, Craigavon would directly prevent growth in other areas and that he and his team were not being asked to make a positive contribution to NI's growth but rather to, "engineer propaganda rather than a new city".⁴⁵

Events proved him correct. Craigavon became a range of 'dump estates' with many having to be demolished within a short time as it failed to carry out its designated growth centre role. Gillespie found that employment was largely drawn from the immediate area with firms complaining about acute labour shortages, especially semi-skilled. Neighbouring employment exchanges in Dungannon, Armagh and Newry continued to suffer from high rates of male unemployment. Intra-regional inequalities remained. Gillespie concluded that although Stormont was clear about where it did not want industry to locate it failed to carry out any serious research prior to an investment decision in order to evaluate any positive or adverse impact the location would have.⁴⁶

In the early 1970's, the search for new initiatives found its expression in the *Quigley Report*. Quigley accepted the failure of the growth centre policies. The governments Regional Plan and Research Team (1972) argued, "the growth/key policy, as it now stands, originally interpreted is not going to work, because it is not politically viable and further exceptionally difficult to manage as it is now cast".⁴⁷ The dispersal of investment and the promotion of small local economic initiatives were adopted as official strategy in response to political and violent unrest. Official publications noted:

"If economic pressures are reduced by planned development and the provision of higher amenity level in the environment diffuses social tensions, the difference in the cultural values within the Society lose their potential for conflict".⁴⁸

By then it was too late. The interests of military strategy and the very existence of Stormont were the issues.

⁴⁵ *Irish Times*, Dublin, 15th August 1964.

⁴⁶ See Gillespie, A.R. "Growth Centres and Regional Economic Development in NI", 1977, unpub. Univ Cambridge, PhD.

⁴⁷ op.cit *Quigley Report*, p.5.

Patterns of Life.

"The basic fear of the Protestants in Northern Ireland is that they will be outbred by the Roman Catholics. It is as simple as that. It is frightfully hard to explain to a Protestant that if you give Roman Catholics a good job they will live like Protestants, because they will see neighbours with cars and TV sets. They will refuse to have eighteen children, but if the Roman Catholic is jobless and lives in a most ghastly hovel he will rear eighteen children on national assistance. It is impossible to explain this to a militant Protestant because he is so keen to deny civil rights to his Roman Catholic neighbours. He cannot understand in fact that if you treat Roman Catholics with due consideration and kindness they will live like Protestants in spite of the authoritarian nature of their church".⁴⁹

This comment while reflecting the patrician view of the landed ruling Protestant gentry towards Catholics is noteworthy in its failure to realise their traditional method of governance and hold over Protestant militants had entered its twilight years. O'Neil would be replaced by more urban and militant leadership that did not concern itself with the capacity of Catholics to 'live like Protestants'. The following summary indicates the speed by which events were irrevocably changing and provide the context for the introduction of equality codes that sought to placate what had become a nationalist revolt.

Terence O'Neill succeeded Brookeborough as Prime Minister for NI on 25th March 1963. In 1964 serious rioting broke out in Catholic West Belfast in response to incitement by the Reverend Ian Paisley when he attempted to remove a tricolour from republican election headquarters. He threatened to march on the Catholic Divis Street area if the police did not act. The response by the RUC led to four days of rioting. In 1965 Sean Lemass, Prime Minister for the Free State visited Stormont in January, an unprecedented and controversial event for unionists. In April 1965, O'Neill advised the unionist Council that he wanted to, " build the Opportunity State in which no man will be imprisoned by his environment". The 1965 Lockwood report on higher education led to the location of the New University of Ulster at Coleraine. Again this was a controversial decision as

⁴⁸ *NI Regional Geography*, Belfast HMSO.

⁴⁹ *Belfast Telegraph*, 5th May, 1969. Lord O'Neill, then Prime Minister for Northern Ireland.

nationalists accused Stormont of open sectarianism against the Catholic Derry City. Wilson also published his economic plans. In 1966 Faulkner declared his ministry's job creation target for manufacturing alone was 30,000 jobs by 1970. Paisley and the son of Carson addressed the newly formed Ulster Protestant Volunteers. Gusty Spence and his colleagues from the UVF killed two Catholics in separate incidents and wounded two others in May and June 26. On June 28 O'Neill proscribed the UVF as an illegal organisation. O'Neill accused Paisley of having close links with the UVF who was "anxious to wash his hands of it now". On January 29 1967 the Northern Ireland Civil Rights Association was formed at a meeting in Belfast. Craig the hard line minister for Home Affairs banned any celebration of the 1867 Fenian Rising and the Republican Clubs. In December 1967 Jack Lynch the new Free State Prime Minister paid a courtesy call on O'Neill. The first civil rights march took place in Dungannon in August 1968 as the campaign for electoral reform, "one man one vote", and an end to discrimination in housing and employment gathered apace. A planned march on 5 October in Derry was banned. NICRA chose to defy the ban and as the 2000 marchers met the RUC near Craigavon Bridge they were batoned. Rioting ensued. A series of civil rights marches took place with objectives of one man, one vote, a fair drawing of electoral boundaries, freedom of speech and assembly, repeal of the Special Powers Act and the fair allocation of housing and end to discrimination in employment. A four-day march from Belfast to Derry starting on the 1st January 1969 was ambushed at Burntollet Bridge, and then stoned again in Derry on arrival in the Protestant area of Irish Street and Spencer road. The UDA was formed drawing its strength from loyalist West, North and East Belfast.

As violence intensified matters developed a momentum of their own. The "Battle of the Bogside", between the RUC and residents took place. British troops came out of their barracks to patrol the streets and support the RUC. The UVF bombed water pipes at the Silent Valley reservoir at Lough Neagh, and blamed the IRA. O'Neill was replaced by his cousin Chichester-Clark, followed rapidly by Brian Faulkner, on a unionist hard line ticket, barricades were put up by residents, vigilantes appeared on the streets, armed gunmen patrolled in republican areas and

the British Army started to erect "peace lines". N. Ireland settled down for several decades of vicious killings and terror. The UDR was created and initially recruited from the infamous B Specials. The Provisional IRA was formed in December 1969 - a momentous period by any account.⁵⁰

The British government decided in the face of this growing civil unrest to establish a Commission to "inquire into and report on violence on civil disturbance in NI since October 5, 1968". The enquiry concluded there was a "failure of leadership on all sides".⁵¹ The report recognised that the major underlying cause as:

"the continuing stresses and tensions within the community, social, economic and political, many of which are rooted in the history of the people themselves ... they had been and remain fundamental elements in the pattern of life in this community".⁵²

The information provided to the enquiry in terms of discrimination in jobs, gerrymandering, housing supply and allocation, the restricted franchise, led the enquiry team to conclude the material evidence supported "the inferences that the evidence of political or social-political grievance which was presented to us from so many quarters, in such detail, and with such frequency, had substantial foundation in fact".⁵³

Cameron's report and its context are important for several reasons. Firstly it provided an official recognition that Catholic grievances were real and some form of institutional redress was essential if Catholic support was to be secured. It thereby reached out to the moderately disaffected Catholic or nationalist and signalled their grievances may be resolved. Secondly as Cameron saw it, reform would allow Catholics to participate in political and administrative life and thereby provide a credible opposition to a party that had been in power unchallenged since 1920. Cameron stated, "an Opposition which can never become a Government

⁵⁰ For an accessible daily account of this period see *Fortnight*; NI 1968-73 A Chronology of Events, Volume 1, 1968-71, Deutsch. R, & Magowan. V, Blackstaff, Belfast, 1973 and *The Centre Cannot Hold*, Collins, T. Bookworks, Dublin, 1983; McCann, Eamonn. (1974, 1980) *War and an Irish Town*, Pluto and Farrell, Michael. (1976) for events in Derry and the NICRA march.

⁵¹ *Disturbances in Northern Ireland* (The Cameron Report) September 1969, HMSO Cmd 532.

⁵² Ibid. p.10.

⁵³ *Cameron Report*, p.11.

tends to lose a sense of responsibility".⁵⁴ Cameron felt reform would generate a sense of responsibility and promote measures, which would secure "on all sides loyal acceptance of the Constitutions of Northern Ireland".⁵⁵ Thirdly it offered a declaration that the ultimate arbiter of power in this case - the British government will act to restore equilibrium. This was no more than a recognition that where the role of violence is such that a significant part of a population becomes disenfranchised from the body politic and its legal mores then the possibility of maintaining an acceptance that the market will offer a meritorious entry becomes remote. The potential for political and market instability with unforeseen local and wider implications becomes a risk that must be managed.

The British approach to such matters that carry unknown risks and in particular where the primary thrust is to manage the situation and maintain existing institutions is to establish an enquiry followed by a Working Party. The purpose of the first is usually to allow the political administration to agree on a body of "facts"; the second is to establish a Working Party to devise a method for mapping out a process that will assist restore a sense of equilibrium within the body politic. The fact that local protagonists may, as Craig, the Stormont minister responsible for unleashing much of the official violence and Paisley condemn the report and refuse to co-operate with any enquiry was as useful as any endorsement.⁵⁶ The British government however decided their first approach was to contain the situation by massive force through strengthening local Protestant forces and despatch of its own armed forces.⁵⁷

Conclusion.

⁵⁴ *Cameron Report*, p.12.

⁵⁵ *Ibid.*

⁵⁶ The fact the gap between enquiry, report and fresh legal equality of opportunity codes was some seven years reflected the emphasis on military solutions. The counterpoint to this however were the facts that the Catholic minority was highly significant in terms of numerical comparison and political organisation to the local ruling Protestant elite. Secondly they had strong political support from a country regarded as their own - the Free State, and a very powerful international ally in the Irish diaspora in the United States. This meant that their potential challenge within the political context of the period was regarded as highly threatening particularly as Britain's first priority was to restore the hegemony of Stormont and unionists.

⁵⁷ It would be some time before a more sophisticated understanding was reached by the British government partly as a result of the end of the cold war and a closer relationship with Ireland. The *1985 Anglo-Irish Agreement* and then more fruitfully the *1998 Belfast or Good Friday Agreement* are evidence of a more sophisticated approach entering the political arena.

The Protestant State had successfully imposed its cultural values and economic strategies to secure a sectarian narrow ground. In a society where unemployment was historically high and opportunities relatively few the struggle to maintain the gains of power, patronage, wealth and employment as reward for loyalty was accepted as wholly reasonable and just. Political expediencies as expressed in economic and physical planning, combined with the realpolitik of gerrymandering to disenfranchise Catholics from political representation and employment secured the divisions essential to the maintenance of the state.

The North however had reached its nadir in the late 1960s, as the challenge to its hegemony could no longer be contained within this narrow ground. Due to wider changes beyond NI's borders internationally and within Britain the nationalist population had in effect declared "they would overcome". The Stormont regimes single-minded application of sectarian strategies could no longer be maintained without the application of constant ruthless force. The response to force, the challenge of civil rights and civil unrest ultimately brought the edifice down and saw the introduction of Direct Rule and a period of reform. Britain determined that newer forms of management were required to meet its objectives and that to sustain some form of consensus reforms were necessary. The challenge to achieving reforms whether it was under a new Stormont regime or later Direct Rule was to square a loyalist paradigm that demanded the maintenance of the status quo while somehow accommodating those Catholics who would or could ally themselves to an essentially Protestant or unionist future. It is to an analysis of these reforms and the response of the British State we now turn.

Chapter 3. The response of Westminster to inequalities in Northern Ireland.

Introduction.

The following sections outline the development of equal opportunity legislation in the USA, England and NI. This enables the policy evaluation of the practical application and origins of NI equal opportunity laws to be placed in context. The *Civil Rights Act* and struggles associated with violence, civil disorder and the need for a political accommodation within the USA are presented as the template for legal developments in the UK. British legislators made the link explicit and acknowledged their debt (*Van Straubenzee* and *SACHR* reports) with reference to NI. To begin with, the concept of equality of opportunity, the American model and its application are examined. This is followed by a brief description of the experience of Race Relations legislation and institutions in the UK. Finally the powers and duties of the 1976 Fair Employment Act (NI) and its replacement in 1990 are outlined.

(I)THE AMERICAN DREAM.

Strange Fruit.

Southern trees bear a strange fruit,
Blood on the leaves and blood at the root,
Black body swinging in the Southern breeze,
Strange fruit hanging from the poplar trees.

Pastoral scene of the gallant South,
The bulging eyes and the twisted mouth,
Scent of magnolia sweet and fresh,
And the sudden smell of burning flesh!

Here is a fruit for the crows to pluck,
For the rain to gather, for the wind to suck,
For the sun to rot, for a tree to drop,
Here is a strange and bitter crop. (Billie Holiday [Abel Meeropol])

Rights and Procedures.

President Kennedy introduced the 1964 Civil Rights Act in 1963 as a direct response to the civil rights campaign amid growing fears of disorder and violence. Discrimination on grounds of race, colour, religion and national origin was made illegal. The law applied to the provision of goods and services, education, employment, any programme receiving federal financial assistance and the use of publicly owned or operated facilities.¹ Title VII of the Act (anti-discrimination laws) became fully effective on July 2nd 1968, as employers were graduated into the laws by size from 1964. A newly created commission, the EEOC, exercised responsibility for enforcing these laws. This included equal pay, rehabilitation and disability, and age in addition to Title VII. The Commissioner's and General Counsel members are appointed by the President and confirmed by the Senate. The public may attend its weekly open sessions and the agenda items are released one week prior to each meeting. The EEOC established around 22 district and 27 area offices to administer its responsibilities. The law however did not make it unlawful to discriminate against an individual who was a member of the Communist Party of the United States or any other organisation required to register as a Communist action or Communist front organisation. This was done by final order of the Subversive Activities Control Board pursuant to the Subversive Activities Control Act of 1950.²

Statutes were made to determine timetables for hearing charges of discrimination. An individual had 180 days to file a discrimination charge or up to 240 days if there was a State or Local Fair Employment Practice Agency in the area.³ In some cases the time limits may be extended to 300 days. After that the EEOC cannot investigate. Charges are made in writing and under oath or by affirmation. Employers are notified within ten days and a fact-finding conference convened.

¹ The Republican Party opposed the inclusion of sex discrimination. However the Senate finally passed the Bill after cloture had been successfully invoked against a filibuster, the first time in the Senate's history.

² Sec.703 (F) CRA 1964, as amended, USA. Title VI of the Civil Rights Act covered non-discrimination in Federally assisted programmes and was aimed at State and local governments as conduits of Federal aid. See Celada, Raymond.J. 'Legislative History and Analysis of Title VI of the Civil Rights Act 1964', 24th November 1965, E 185 G1, 336/38, A-116, Congressional Research Service, Library of Congress, USA.

³ The EEOC has work sharing agreements with 69 state or local agencies.

Both parties and any witnesses then put their case. If a settlement is not possible or the charge is not deemed appropriate for such a conference, further investigations are conducted. If the Commission finds there is no reasonable cause to accept discrimination has occurred the individual may exercise a right to sue and go to court. The EEOC maintains a panel of attorneys who will pursue such cases on behalf of the complainant.

Determinations by the Commission on reasonable cause are to be made promptly and not later than 120 days from the filing of the charge. If the Commission is unable to achieve an acceptable conciliation agreement from the respondent, it may initiate a civil action. Where the respondent is a government body, agency, or political sub-division, matters are automatically referred to the Attorney General. She/he may then take a civil action against the respondent in the appropriate district court.⁴ The chief judges in any district court are duty bound to expedite these cases at the earliest practicable date. The identities of employers and employees, except in unusual circumstances, must be revealed. The 1971 amendments to the Act gave the EEOC the power to go directly to court to enforce the law and critically provided that discrimination charges may be filed by organisations on behalf of aggrieved individuals, as well as by employees and job applicants themselves. Legal action then may be initiated from a range of sources. The courts attach great weight to statistical data as a measure of the employment situation and as an indicator of the steps an employer should be taking to resolve any problems. Discriminatory practices may lead to intervention by the Federal government, costly litigation for the company, back pay awards and court-imposed goals, timetables and changes in employment. The major mechanism for overcoming inequalities are programmes of affirmative action. This has entered the popular idiom as 'quotas' or 'reverse discrimination'. It is therefore useful to outline exactly what affirmative action entailed.

Affirmative Action.

"What is required by Congress is the removal of artificial, arbitrary and unnecessary barriers to employment when the barriers operate invidiously

⁴ CRA TITLE VII, Sec 706,(b)(f).

to discriminate on the basis of racial or other impermissible classification”.⁵

This included acts that appeared fair in form but effectively discriminated in practice. The legal basis for affirmative action programmes is reflected in legal titles and a range of Executive orders made by the Presidents office. ⁶ There is now a substantial amount of case law on the issue. A Federal Register is published containing a series of technical amendments to the procedural regulations on behalf of the EEOC. Other State and Federal laws and Executive Orders that also prohibit discrimination in employment support title VII. For example, Age, Equal Pay, Education Amendments Act 1972, the National Labor Relations Act and Related Laws; the Civil rights Act of 1866 and 1870; and the Equal Protection Clause of the 14th Amendments to the Constitution.

Executive Orders issued by the President lay down that in all areas concerning Federal employment policy and practice, positive programmes to realise equal opportunity were to be implemented. All contractors had to commit themselves to these programmes, and permit "access to his books, records and accounts ... for purpose of investigation to ascertain compliance with such rules, regulations and orders". Non-compliance with the non-discrimination clauses and rules of the contract could lead to the termination, cancellation or suspension of the contract. The contractor could also be declared ineligible for further contracts and subject to other sanctions.⁷ These provisions bound sub-contractors and trade unions. The Order specifically demands the names of the contractors or unions that have complied or failed to comply with its provisions are published. Amendments made under Executive Order 11375 in 1967 expressly require that discrimination on grounds of sex is stated under the same public terms.

Although Title VII does not explicitly require affirmative action the Executive Orders do. All firms at the time in receipt of Federal grants over \$50,000 and

⁵ Title VII of the Civil Rights Act proscribes not only overt discrimination but also practices that are fair in form but discriminatory in operation". (US Supreme Court Justice Warren Burger, *Carter V Gallagher*, 452, F.2D, 315, 1971).

⁶ For example, Title VII of the CRA ACT, the 1972 Equal Employment Opportunity Act, Executive Orders 11246, 11375 and Revised Order No.4, made by then President, Lyndon Johnson. A guide 'The time is Now – A call to Business and Industry' was published in Johnson's and Hubert Humphrey, the vice-president's name in 1965, US 1965 O-783-852.

⁷ Executive Order 11246, 1965.

employing 50 or more had to develop and implement written programmes. These are monitored by a Federal compliance agency. In addition the Office of Federal Contract Compliance in Revised Order No.4 (4th December 1971) spelt out the specific requirements for "result-orientated" programmes. Within 120 days from the start of a contract, a written affirmative action compliance programme for each of its establishments must be produced. For a contractor to be considered in compliance a "corrective action" programme to remedy an "affected class", who, by virtue of past discrimination must be included in the programme.⁸

If a contractor has no programme or has one that is not acceptable he has 30 days to show good cause or implement an acceptable action programme. The contract is immediately terminated if he fails to do so. Affirmative action programmes were defined as:

" a set of specific and result orientated procedures to which a contractor commits himself. An acceptable affirmative action programme must include an analysis of areas within which the contractor is deficient in the utilisation of minority groups and women, and further goals and timetables to which the contractors good faith efforts must be directed, to correct the deficiencies and, thus to achieve prompt and full utilisation of minorities and women, at all levels and in all segments his workforce where deficiencies exist".⁹

The courts may "order such affirmative action as may be appropriate", under Title VII. This has included numerical hiring and promotion goals to compensate for the effects of past discrimination. "Underutilisation", is defined by the EEOC as "having fewer minorities or women in a particular job category than would reasonably be expected by their presence in the relevant labor market". It also includes the employment of people in jobs that fail to make adequate use of their skills and training. "Concentration" means more of a particular group (females, males, and ethnic minorities) in a job category or department than would reasonably be expected by their presence in the workforce.¹⁰ The EEOC considered that where statistics demonstrate a significant underutilisation or

⁸ *Affirmative Action and Equal Employment*, A guidebook for employers, Volume 1, EEOC, Washington DC, 1974.

⁹ Chapter 60, OFFC, Revised Order, No.4, as amended 1974.

¹⁰ *Affirmative Action and Equal Employment*, Vol.1, EEOC, USA, 1974.

concentration, "there is a strong probability that discriminatory practices are operating in some aspects of your employment system and that you should take remedial action to eliminate such practices".¹¹ To achieve this, specific goals and timetables were held to be "the heart of your programme". The courts have generally developed these basic principles and placed the onus on the employer to demonstrate the absence of minority groups and females is not the result of discrimination. The US Supreme Court held:

"under the (Civil Rights) Act, practices, procedures, .. neutral in their face, and even neutral in terms of intent, cannot be maintained if they operate to freeze the status quo of prior discriminatory employment practices... Congress directed the thrust of the Act to the consequences of employment practices, not simply the motivation".¹²

The barriers identified by the EEOC and courts included recruitment, selection, placement, testing, systems of transfers, promotion, seniority, lines of progression and other basic conditions and terms of employment. Remedies have been expensive and far-reaching. Back pay and legal costs may be awarded to both the individual and the whole "affected class". This may be backdated up to two years before any discrimination charge is made. For example, black employees in the Lorrillard Corporation were awarded \$500,000 in back pay when the court found seniority and limited transfer rights in contracts between the company and local trades union restricted their access to most jobs. Every black employee who suffered a loss in promotional and pay rise opportunities was duly compensated. Virginia Electric Power Company was ordered to pay \$250,000 to compensate black workers for wages they would have earned, had the company's discriminatory system of promotion and unnecessary qualifications requirements not prevented their access to better jobs. The company was ordered to ensure at least 25% of new union employees were non-white until an employment target in union jobs of 21.5% was reached.

The Household Finance Corporation paid more than \$125,000 to white-collar female employees who were denied promotion. Under the terms of a consent decree they agreed to hire 20% females for branch representative openings; 20% from specified minority groups for clerical, credit and branch representative jobs

¹¹ Ibid.

¹² Ibid. Griggs V Duke Power Co.401, USA, 1971.

until total employees reached 65% of their population in the labour recruitment area. Sardis Luggage Company was ordered to pay \$120,000 plus attorney fees and costs to black plaintiffs. They were ordered to recruit black workers in a 2:1 ratio for four years until the ratio of blacks were in direct proportion to the non-white workforce in the local catchment area. One of the most expensive warnings to employers concerned the American Telephone and Telegraph Company (AT&T). They were obliged to pay approximately \$15m in back pay to thousands of employees plus an additional \$50m in yearly payments for promotion and wage adjustments for minority and female employees. Specific hiring and promotion targets were established. These were subject to review by the EEOC and Office of Federal Contract Compliance.¹³ A major sex discrimination settlement was finalised in April 1992 against State Farm Insurance Companies on behalf of 814 women. In the 13 year old case women who had been refused jobs as sales agents were awarded \$157m initially, with a final compensation level of around \$205m.¹⁴

American courts held numerical goals and timetables to be a necessary and critical means of overcoming the present effects of past discrimination. Great weight was therefore attached to building remedial programmes upon findings derived from statistical data. In the late 1970's a series of court cases appeared to place the future of vigorous action programmes in some doubt. The EEOC was forced to address the relevance of famous cases such as Bakke in its *Affirmative Action Guidelines*.¹⁵ The EEOC rejected the view that affirmative action programmes on race, sex and national origin were a form of "reverse discrimination". In the Bakke case the University did not assert reliance on any detailed guidance and procedures for creating an action programme. The Commission reviewed its guidelines in the light of the Supreme Court's opinions and concluded they were a consistent and lawful foundation for voluntary action under Title VII.¹⁶ The EEOC determined to support any employer that was subjected to similar allegations.

¹³ op.cit.EEOC *Affirmative Action and Equal Employment*, January 1974, p.8-11. USA. The court references are cited on pp.65-67. See also 'Equal Opportunity in the USA – Recent Developments' Rees, Tom. Runnymede Trust, August 1974, Ref. S7, pp.9-12 describes ATT's response to a consent decree by the Federal Courts.

¹⁴ *The Guardian* April 1992, press report.

¹⁵ [Regents of University of California V Bakke, 98 S.ct 2733 (1978)] Federal Register, EEOC, 19th January 1979.

"In such a situation both the affirmative action undertaken to improve the condition of minorities and women, and the objection to that action, are based upon the principles of Title VII. Any uncertainty as to the meaning and application of Title VII in such situations threatens the accomplishment of the clear Congressional intent to encourage voluntary action. The Commission believes that by the enactment of Title VII Congress did not intend to expose those who comply with the Act to charges that they are violating the very statute they are seeking to implement".¹⁷

Although EEOC guidelines stress voluntary action without resort to litigation, its role as the Federal body responsible for co-ordinating and enforcing equal opportunity programmes and statutes demanded that its' guidelines should form the basis for action and constitute a lawful defence under Title VII in the event of counter litigation.¹⁸ The Federal Communications General Counsel, concluded in September 1978, "that the Bakke case does not cast any doubt on the validity of the Commissions equal opportunity policies and rules".¹⁹ This followed on from the Supreme Court's view that racial preferences may be a valid remedy only where there has been a judicial, legislative or administrative finding of past discrimination. There had been no such finding in the Bakke case. Furthermore, the EEOC's programmes did not impose an arbitrary quota system. A distinction is drawn between arbitrary quotas and a system that imposed hiring goals and timetables *after* the Commission determines an employer or union is discriminating or not providing equal opportunities. The practices of the employer are evaluated 'within a zone of reasonableness' that considers numerous factors such as efforts to recruit minorities and women.²⁰

In the Bakke case, the Court noted, "Every decision upholding the requirement of preferential hiring under the authority of Executive Order 11246 has emphasised the existence of previous discrimination as a predicate for the imposition of a preferential remedy ..".²¹ The university had 'erred' by firstly not acting under the authority of a discrimination finding and secondly by failing to adopt a programme

¹⁶ *Affirmative Action Guidelines*, Part XI, January 1979, USA.

¹⁷ Ibid., See Downing. Paul. M., *Affirmative Action Regulations of the Office of Federal Contract Compliance Programmes*, Report No.79-75, HD 6305C, pp. 15-26, 13th March 1979, Congressional Research Service that summarises the position of various American Departments in response to the Supreme Court's decision on the *Bakke* case.

¹⁸ Executive Order 12067, USA.

¹⁹ Federal Communications General Counsel, September 1978.

²⁰ Non-Discrimination in Employment practices, FCC, *Code of Federal Regulations*, 60-2,1977.

²¹ op.cit Congressional Research Service, *Report No.79-75 Gov.*, USA 13th March 1979.

of affirmative action that was based on EEOC guidelines.²² As the EEOC stressed, there is in fact no separate concept under Title VII of "reverse discrimination". Discrimination against all individuals because of race, colour, religion, sex or national origin is illegal under Title VII.²³

The distinction between 'quotas', numerical goals and timetables may appear academic but in practice it is vital in terms of effective affirmative action programmes.²⁴ The EEOC stated in its Guidelines, "Affirmative action under these Guidelines may include interim goals or targets ... In order to achieve such interim goals or targets, an employer may consider race, sex, and/or national origin in making selections from among qualified or qualifiable applicants". To make it clear they added, "any numerical objective is subject to the availability of sufficient applicants who are qualified by proper, validated standards".²⁵ The goals are therefore not arbitrary, but may also be higher than the percentage of a previously excluded group's availability in the workforce, "so that the long term goal may be met in a reasonable time". Affirmative action and merit are considered to be complimentary elements. The objective of affirmative action is to overcome the underutilisation and under-representation of minority groups and women and to provide them with skills that render them competitive with others. These rules and laws apply to all employers, their subsidiaries, suppliers and sub-contractors. The EEOC provide illuminating standard letters for communicating between a main contractor and supplier. It states in part:

".. in accordance with the Executive Orders, contractors and sub-contractors are obliged to take affirmative action to provide equal employment opportunity without regard to race, creed, colour, national origin, age or sex. We expect to see our commitment to equal opportunity employment opportunity to be reflected in the racial and sexual composition of your firms workforce and urge a vigorous affirmative action programme to overcome underutilisation".²⁶

²² Federal Register, Vol.44 No.14, 19th January, 1979.

²³ Ibid. McDonald V Sante Fe Trail Transportation Co.,427 US 273 1976.

²⁴ See Bronagh, R. (ed) *Philosophical Law, Authority, Equality, Adjudication and Privacy*, Greenwood Press, USA, 1978: pp.6-45,52-58, 84-93.

²⁵ *Affirmative Action Guidelines*, Part XI, 1979,4425.

²⁶ US EEOC *Affirmative Action and Equal Employment*, Vol.2, Appendices.

The supplier is expected to complete a form confirming for the contractor they are in compliance with these requirements. It is instructive to reflect upon what has been achieved by these laws.

Unfilled Dreams.

A common perception is that while the black middle class may have materially benefited the position for the working class minorities remains essentially unchanged. During a critical period for the development of American equal opportunity laws, 1960-76, public employment grew by 7.2 millions. Much of this was in education, welfare, health, housing and employment security programmes such as manpower training. Over 55% of net employment gains for blacks occurred in public programmes that compared with 25% for whites. Of the 2.3m employment increase for blacks over this period, 850,000 (36%) were in public social welfare programmes underpinned by Federal funds. The comparable figure for whites was 18%. Because of this the black middle class tripled as they moved out into non-educational public employment. By 1976, 45% of all black professionals worked in public social welfare programmes as service providers. Over the same period, during the National War on Poverty and Model Cities programmes, the black poor relied on various forms of income maintenance support for two-thirds of their income.²⁷

During the conservative 'roll-back' years of the Reagan/Bush administrations the opportunities for the black middle class to enter into public welfare spheres of employment were curtailed. Anti-poverty programmes were cut and material deprivation among the black poor intensified. In overall terms the black unemployment rate was twice the rate of whites; the median income remained about three-fifths of white families; the proportion of black workers employed in professional and technical jobs increased by 1.2 million to 9.7% between 1961-82 and in managerial jobs, from 2.5% to 5.5%. These gains occurred primarily in Federal, state and local government employment. In private industry,

²⁷Brown, M. & Erie, S., 'Blacks and the Legacy of the Great Society', *Public Policy*, Vol.29, No.3, Summer 1981, USA.

notwithstanding the potential heavy penalties and threat of losing major contracts, little progress was recorded.²⁸

Between 1968 -1980, the official unemployment rate grew from 3.6% to 7.1%. For non-whites the increase was much sharper, from 5.6% to 13.3% as compared to an average 6.3% for whites.²⁹ The net impact of tax cuts and benefit changes, reduced family income of those earning under \$10,000 by \$560 and increased the income of those earning above \$80,000 by \$15,025. The average tax bill for whites fell at twice the rate of poorer black households.³⁰ The US Commission on Civil Rights³¹ in the face of Reagan cuts to civil rights programmes in 1983, declared that, "the declining support for civil rights enforcement, unless halted, could leave our Federal civil rights law little more than devalued pieces of paper".³² Since statistics have been gathered the black unemployment rate has been twice that of whites. In the 1950's it was 10%, during the 1969-71 recession, 180,000 black workers lost their jobs and by the end of 1982, the unemployment rate for black men and women was 20.2% as compared with 9.3% for whites. The comparative rates for teenagers were 46.7% and 21.7%.³³ Commentators argued that while the impact of Lyndon Johnson's "Great Society", had little impact on the material lot of the black poor it had succeeded in assisting an emerging black middle class. They however were strongly associated with a social welfare economy of publicly funded middle income service providers supporting their fellow low-income service dependants. Between 1960-76 Federal and state intervention created 2,000,000 new jobs representing 40% of the 4.8million increase in public, social welfare employment and 28% of the 7.2 million increase in all government employment. The proportion of blacks employed in the public sector increased from 15 to 27% Thus public programmes accounted for 55% of the net employment increase for blacks since 1960.³⁴ This expansion enabled blacks to move beyond education and into a range of social welfare agencies at state and

²⁸ Bureau of the Census, Population Reports, USA.

²⁹ Bureau of Labour, Population Survey Bulletins, USA.

³⁰ Business Incentives and Minority Employment, September, 1982, Wisconsin Advisory Committee to US Commission on Civil Rights.

³¹ A bipartisan independent agency created by the Civil Rights Act of 1957.

³² Ibid.

³³ Reid, John. 'Black Americans in the 1980's', *Population Bulletin*, Vol.37, No.4, December 1982, USA.

³⁴ Brown, Micheal. K. & Erie, Steven. P., 'Blacks and the Legacy of the Great Society: The Economic and Political Impact of Federal Social Policy', *Public Policy Volume 29 No.3 (Summer 1981)*, pp.299-330. Pp.302,304,309. Harvard College, USA 1981.

locals levels thereby increasing the size of the middle class by almost three times during this period. Brown (1981) argued this enabled blacks to gain leverage over the allocations of 'soft money' in the competition for grants but in so doing created a schism between the black service providers and the black poor which was reflected in diverging voter participation rates. The black middle class registered voter turn out at around 76% during 1964-76 while their poor counterparts ranged from 32% to 52% representing an average decline of 25%.³⁵ The American state then has successfully brokered this interest group to create a vested interest in the institutions and the legitimacy of the state. The control and reward functions of the social welfare economy may lead the black poor to regard participation in the political process as futile but they are securely locked into the process. The incorporation of their middle class counterparts has been achieved primarily by the expansion of the public sector in its broadest sense of direct and indirect local, state and federal employment.

A survey carried out by the Black Enterprise magazine of the top 200 black owned corporations found only one with sales above \$1bn - Beatrice Foods. The major source of independent black wealth was gained through car dealerships. This accounted for 37% of the top 200. Together they employed a total of 38,783 people with a combined revenue of \$7.9bn, slightly above the income generated by McDonald's Burgers chain. Half of these companies were located in five states, Michigan (22), Illinois (19), California (18), New York (17) and Texas (13). While the Pentagon and the defence department claim minority owned Small Disadvantaged Businesses companies benefit from \$1.3bn in procurement contracts, (the law requires it set aside 5% of contracts to small minority companies), only one of the top 25 civilian defence contractors met the 5% target in 1991.³⁶

As technological advances changed the occupational structure, blacks moved out of agriculture (41% in 1940 to 11% in the 1980's) and domestic and personal services into the white collar public sector. Their distribution still reflected past and current inequities. Within the public sector, which accounted for 40% of black

³⁵ Ibid., pp.326-327.

³⁶ *The Guardian*, 6th June, 1992.

employment, in engineering, medicine, law and the universities blacks made up 2% to 3% of these jobs. Approximately 34% of all blacks lived below the official poverty line with over half (52.9%) of all black single parents living below this.³⁷ When cutbacks in benefits and welfare programmes were made the black population was among the hardest hit. Figures from the US census bureau (September 1992) indicated 35.7m people in 1991 were living below the official poverty line. Falling income was felt right across race lines although the National Urban League estimated in January 1992 that black families earned around 60% of what white families earn. The census found that unemployment rates for blacks were 32.7% and 28.7% for Hispanics.³⁸ A report by the Carnegie Corporation concluded that 3 million children in the USA live in poverty with many locked out of federal health, education and nutrition programmes. Many of these come from single parent, poorly educated or unemployed and immigrant families.³⁹

Public sector cuts reinforced the prevailing economic and social relationship between blacks and whites. Unemployment rates were double for blacks of all ages and sexes, as were the educational levels in all regions, cities and suburbs of the country. Unemployment for black teenagers remained consistently above 30%.⁴⁰ Successive reports from the EEOC have indicated that fundamental patterns of inequality remain despite the wealth of equal opportunity legislation. From data collected from 132,000 companies, that employed 50 or more and accounted for 32.5m of all private non-farm workers, major inequalities were revealed. Among the 3.98m black workers, male and female, 4.3% were recorded as officials and managers; 4.8% as professionals; 18% clerical; 23.3% operatives; 10.7% labourers and 18.6% service workers. Only 7.7% were recorded as craft or skilled workers.⁴¹ In the ghettos the consequences are stark, brutal and stretch well beyond the relatively narrow confines of employment.

In Washington, the seat of American power and headquarters for the EEOC, the

³⁷ Congressional Research Centre, *Economic Progress of Blacks Since the 1960's*, Economics Division, USA, May 1983.

³⁸ US Census Bureau Reports, September 1992.

³⁹ Poor children were defined as those in families whose annual income in 1989 was below \$12,674 for a family of four. Carnegie Corporation, USA, 1994.

⁴⁰ Congressional Research Service, *Economic Progress of Blacks Since the 1960's*, Economics Division USA, May 1983.

evidence of this is a daily occurrence. During 1988, virtually all of the 372 murder victims, " and likewise almost all of the perpetrators of violence were young black males, an epidemic of violence unprecedented in our capital's history", according to Judge Ressie Walton of the Washington Superior Court.⁴² The riots in Los Angeles in May 1992, left 37 killed, more than 1,200 injured, 2,000 fires reported and over 3000 looters arrested. Damage to property exceeded \$250m. The social context of this explosion against legal injustice is the steady decline between 1973-90 of income by 44% for black high school graduates and 35% for the Latino or Hispanic groups. Nationally, blacks constitute approximately 11% of the population but represent 45% of all murder victims. Nearly one in four black males in their twenties is in jail, on parole or on probation. The comparable figure for white males aged between 20 and 29 is one in 16 and for Hispanics one in 10. The Sentencing Project pressure group in Washington further estimated that 610,000 young black males are caught up in the criminal justice system, which compares with 436,000 enrolled in higher education colleges.⁴³ The Justice Department accepted the analysis as in line with official studies. By 1992, the comparative unemployment rates were 6.5% for whites and 14.1% for blacks.⁴⁴

The legal facilities to promote equality of opportunity cannot be assumed to be sacrosanct and immutable. The Supreme and state Court judiciary are political appointees. As such the emphasis on affirmative action and protection can change. For example the Public Works Employment Act of 1977, required state and local governments to use 10% of federal funds granted from public works to procure services from businesses owned or controlled by ethnic minorities. The groups included, "Negroes, Spanish-speaking, Orientals, Indians, Eskimos and Aleuts".⁴⁵ The purpose of this provision was to promote the development of minority-owned businesses by ensuring they got access to government sponsored projects. Additional assistance is also provided under the Small Business Act.

In 1980 the Supreme Court upheld the constitutionality of this provision when a

⁴¹ *Job Patterns for Minorities and Women in Private Industry* 1986, EEOC, 1988, USA.

⁴² *The Guardian*, London, 16th January, 1989.

⁴³ Sentencing Project, February 1990, USA.

⁴⁴ *LA Times*, 17th October, 1995.

⁴⁵ The term Negro is replaced in guidance with "black" and Eskimos by "Inuit".

contractor tried to argue the Act placed "select minority groups", in a preferential position. The Court asserted the programme was remedial in character and had as its purpose achieving a more equitable position for such groups competing for public contracts. In another case by comparison the Supreme Court struck down a law in Richmond, Virginia which set aside 30% of city construction work for minority owned companies. The dissenting judge, Harry A. Blackmun, criticised the court for pretending past grievances and injustices could be remedied by asserting society was colour blind and ignoring the effects of three centuries of slavery and segregation. Richmond is the seat of the Old Confederacy.⁴⁶

Twenty-five years after the introduction of these civil right freedoms, the Supreme Court spent much of 1989 reversing positive action programmes. Apart from Virginia, the Court reversed an 18-year-old precedent, by imposing on the plaintiff, rather than the employer, the burden of proof in discrimination cases. In a case concerning the Fire Department in Birmingham Alabama, white firemen were given leave to challenge and have banned the City's affirmative action programme when the first black person was promoted to lieutenant. The city employed 453 firemen, including 42 blacks. None of its 140 lieutenants, captains and battalion chiefs were black. The Supreme Court said although the trade unions and city had agreed to an affirmative action programme, the newly appointed firemen were not bound by this agreement and could therefore challenge it.⁴⁷ The first President Bush followed this up by threatening to veto a new civil rights bill in 1991. Bush argued that it represented a new 'quotas charter' without limits on damages for sexual or racial harassment. When an amended bill was finally agreed a presidential directive was issued to government agencies effectively ordering civil servants to evade the bills provisions. Kerry Scanlon of the National Association for the Advancement of Coloured People declared the order was "flagrantly unconstitutional". Following a storm of protest the former President had the order rewritten claiming the press reports were on an "early draft" on how to implement the Civil Rights Act.⁴⁸

⁴⁶ *Baltimore Sun*, 26 January, 1989.

⁴⁷ *The Guardian*, London, 14th June 1989.

⁴⁸ *The Guardian*, London, 22nd November 1991.

The Supreme Court further weakened hard won safeguards in January 1992 in an unprecedented narrow ruling that the Voting Rights Act 1965 did not apply to two cases in Alabama. Two county boards with white majorities had acted to reduce the executive powers attached to jobs which black officials had been elected. The Court in a 6-3 majority voted the electors intentions had not been subverted when they were subsequently stripped of their powers. The justice department had contended the purpose of the 1965 Act had been defeated. Following a decision by the Supreme Court in 1993 which found in favour of complaints by white voters that a district in North Carolina had been created to ensure a black representative was elected conservatives mounted a campaign to redraw constituency boundaries in around 50 electoral districts. Prior to the 1992 elections boundaries had been redrawn to assist black majority areas return a black candidate. The number of blacks in Congress rose from 26 to 39 as a result. Judge Sandra Day O'Connor wrote that the area "bears an uncomfortable resemblance to political apartheid". Black activists responded by pointing out that the rezoning process was required under the Voting Rights Act of 1965 and an amendment in 1982 that sought to secure increased representation for minorities. They added, that in many southern states, not a single black representative has been elected since the civil war. Lawsuits were filed in Georgia, Texas, and Florida.⁴⁹ The US Supreme court ruled in 1995, (5-4 majority) that districts in Georgia designed to ensure black majorities in an attempt to overcome the racist past of Georgia, violated the equal protection rights of white voters. The National Association of Coloured People charged this was "the first step in the resegregation of American electoral democracy".⁵⁰ Former President Clinton described the "decision (as) is a setback in the struggle to ensure that all Americans participate fully in the electoral process and it threatened to undermine the promise of the Voting Rights Act".⁵¹

Conclusion.

In the US the introduction of comparatively strong equal opportunity laws and programmes of affirmative action, were directed at approximately 15% of the

⁴⁹ *The Guardian*, 16th February 1994.

⁵⁰ *Irish Times*, 1st July 1995.

population (mainly Blacks and Hispanics) excluding women. The concept of equality of opportunity and the institutions with the responsibility for punishing those who impeded its realisation failed to create a society of equal unequals in the market place. The patterns of employment demonstrate a structural pattern of inequality that must in some form meet a need of the market place. Thus to disproportionately reward the fruits of labour while simultaneously undermining a commutative sense of justice which requires and assumes each individual is a free choosing agent at liberty in the market is no more than the dynamic of capital at work. This simultaneously represents a process that is a daily challenge to the concept of equality within the framework of modern liberal morality. If American laws and enforcement agencies have failed to deliver a fundamental change to the statistical profile of inequality it really does beg the question, what needs to be done in a society, such as Northern Ireland, where the inequalities are as great but the 'minority' population is around 40%. The disparities in the USA are likely to widen with the end of the Clinton administration and the new Bush era. The new President has already made public statements that as part of his tax cutting agenda and reversal of intervention by the Federal Government that he will reduce financial assistance and reverse what he regards as the inequities of affirmative action.⁵² If rigorously pursued this may effect the perception and actual opportunity for small-scale business from black and ethnic minorities to gain entry into one the richest middle class clubs on the planet. If so then the US will have decided the full force of the market requires no mitigation or cloak of morality to promote consensus in its legitimacy.

The American experience that a range of macro economic policies aligned with public sector programmes including affirmative action directed at incorporating the black middle class offer interesting parallels for the Catholic middle class in NI. One challenge facing the British government is to devise a strategy of social welfare programmes that create the opportunities for incorporation over the long term thereby enabling the Catholic middle class to adopt a position of separation from their Catholic working class counterparts. If social and economic policies can liberate the Catholic middle class from the prison of geography that has obliged

⁵¹ Ibid.

⁵² Guardian press and television news reports during the first week of January 2001.

them to passively or actively support the emotional and political aspiration for a united Ireland then Britain will have generated significant incentives for maintaining a new class relationship. Effective equality policies can assist this process by legitimising Catholic participation in the institutions of the state and offering the prospect of opportunities for working class Catholics. The context for this challenge however is a market place not traditionally amenable to large-scale entry by other 'traditions'.

Section II. RACE RELATIONS: THE ENGLISH EXPERIENCE.

The Art of the possible.

The White Man's Burden.

Take up the white man's burden -
Send forth the best ye breed -
Go bind your souls to exile
To serve your captives need;
To wait in heavy harness
On fluttered folk and wild -
Your new-caught sullen peoples
Half-devil, half-child.
Rudyard Kipling, 1899.

The first Race Relations Act in 1965 prohibited discrimination only in public places. The broader 1968 Act established the Race Relations Board followed by the Race Relations Act 1976, which introduced the Commission for Racial Equality (CRE) as the arm of enforcement replacing the RRB. The evolutionary process was not a smooth one. The CRE combined the roles of enforcer, conciliator and propagandist through its sponsorship of local Community Relations Councils. The CRC's were designed to act as the Commission's "major partners in the work of equality of opportunity and good race relations". This union was not

always happy or productive.

The 1976 Act.

The Act and its subsequent Code of Practice seek to prevent discrimination on grounds of race and or nationality. It included direct and indirect forms of discrimination. It also permitted forms of positive discrimination i.e. the provision of extra training opportunities and the targeting of recruitment at specific groups identified as being under-represented in employment. In addition, if a particular form of employment required a person from a specific racial group e.g. the provision of personal welfare service, then this was accepted as a legitimate form of positive action. The prevention of discrimination on grounds of religion was excluded from the Act. The Race Relations Act made unlawful discrimination in the provision of goods, facilities and services, employment, membership of trade unions and employers organisations, the letting and provision of housing, business and other premises, and advertisement and public notices.

The CRE enforces the Act by assisting individuals take a complaint before an industrial tribunal. Although there is no legal aid the CRE may choose to provide advice, legal representation or financial support to bring a case. The remedies are the same as those under the Employment Consolidation Act 1980. The CRE may also carry out formal investigations, use subpoena powers to obtain information and witnesses. If the CRE concludes the Act has been contravened, it can serve a Non-Discrimination Notice that requires the respondent to cease such practices. The Notice may require specific changes to be made; formal monitoring of the Notice, and where non-compliance occurs seek a court injunction. The CRE has the added responsibility for keeping the Race Relations Act under review. While it is funded by an annual grant from the Home Office and its' Commissioners are appointed by the Home Secretary, it together with local authorities funds a network of Racial Equality Councils (formerly CRC's). As autonomous and voluntary organisations, their brief is to work closely with the CRE, local authorities and institutions to promote equality of opportunity locally. The CRE provides funding for 87 REC's which includes five in Scotland and three in Wales. The first review of the Act by the CRE was carried out in 1985. The CRE pressed for a widening

of the law especially in relation to indirect discrimination. It sought similar punitive powers and levels of compensation to be brought into line with the 1989 Fair Employment (NI) Act.⁵³ The CRE demanded new areas such as discrimination on grounds of religion be included, the extension of race to NI and the introduction of specific laws to protect against harassment and violence. The CRE demanded parity with the 1989 Fair Employment (NI) Act by making ethnic monitoring compulsory; the introduction of formal contract compliance and the ability to initiate investigations without having the precondition that it must believe discrimination is taking place. The CRE called for specific industrial tribunals to consider individual and group cases, legal aid and a duty to be placed on employers to return questionnaires.⁵⁴

The Act in its early and current form has been criticised as too limited and not powerful enough by successive CRE chairs, academics and activists. Geoffrey Bindman and Anthony Lester provided an early and comprehensive critique of the 1968 Act.⁵⁵ Immigration and nationality laws were and remain outside the CRE's remit. However it was accepted that the adoption of a law with the prime purpose of actively promoting equality represented a radical departure from a legal system traditionally passive in these areas. By so doing the state was in effect creating in statute the "merit principle" as a demonstration of its acceptance of the need to mediate the application of a liberal market morality in daily life. While criminal and civil laws existed to provide remedies against an injury or damage to the person and property, laws on race sought to address situations that previously had been taken for granted in society and the market place. Previously the legal system did not recognise that an injury had occurred or an individual's opportunity to enter the market place had been impeded. The British legal system in effect accepted that minority groups should indeed be treated unequally in the labour market. The Race Relations Act thereby endeavoured to restore some balance or equity by recognising injustice on grounds of race as unfair and oppressive. This was a recognition that the market place was changing and that demographic changes required greater sophistication in the politics of legitimacy and market mediation.

⁵³ At the time in NI compensation limits were £30,000 and under review while in Britain compensation for racial discrimination was up to £10,000.

⁵⁴ *Act for Equality*, Strengthening the Race Relations Act, 1994.

High levels of dissatisfaction with this mediation led to a Home Affairs Committee Report into what they concluded was an abysmal performance by the CRE. Many of its most vociferous critics were funded by the CRE. The Committee noted, "The relationship both in general and in particular cases has been bedevilled by accusations of mutual discourtesy, lack of consultation and bad faith". Given the Commission spent almost as much money on paying the staff of the CRCs, £1.6m in 1980-81, as it did on its own (£2.3m), their bitter relationship had produced little in return in terms of achieving progress in challenging racism effectively.⁵⁶ The Commission at this stage had only been operational since June 1977. The Home Affairs Committee in its earlier reports on Racial Disadvantage, "were not greatly impressed by the quality of evidence submitted by the Commission in the course of that enquiry", and in "the light of their own misgivings and of widespread public criticisms", decided to subject the Commission itself to detailed scrutiny.⁵⁷ The enquiry noted that,

"the Commission's gravest defect is incoherence. The commission operate without any obvious sense of priorities or any clearly defined objectives. There are few subjects on which they prove unwilling to pronounce and few projects upon which they are unwilling to embark. Where specific policy objectives have been established, they are rarely translated into concrete activity".⁵⁸

What went wrong?

The particular history of these bodies that have been empowered to secure civil rights and promote means of ending discrimination has been the rapid exposure of fundamental contradictions or tensions existing between the stated public objectives as laid down by statute; the political and economic context within which that remit is formulated, and the ambivalent and sometimes overt hostility by the body politic against the full application of these laws. Legislation produced in response to public pressure and political turbulence has rarely been vigorously

⁵⁵ Bindman, Geoffrey. & Lester, Anthony. *Race and Law*, Penguin 1972.

⁵⁶ Home Affairs Committee, Commission for Racial Equality, Vol.1, pp.xlii,xliii, 23rd November 1981, HMSO London.

⁵⁷ HC 424-I, 20 July 1981, and Vol.1, Session 1981-82, p.viii, *Commission for Racial Equality*, 23rd November 1981, HMSO London.

pursued or fully funded in Britain. The last three CRE chairman - Peter Newsam, Herman Oussley and Gurbux Singh - have all been high profile critics on these points. It is remarkable however that the early experience of such institutions has been so similar.

The Commission's first Chair was former Conservative MP, David Lane. The Select Committee described the CRE as a body without coherence or rationale and demanded it concentrate on law enforcement.⁵⁹ The CRE lost key support from those who had campaigned since the early 1950's and race riots of 1958 for a better deal. Conciliation as a major tool of the Act was rejected as insufficient. The context for this appears to have been the reported increase in attacks on ethnic minorities by groups such as the fascist National Front during the early 1970's. This included allegations by ethnic groups that accused the police of protecting NF members from prosecution and collusion.⁶⁰ The introduction of the CRE then was failing in the attempt to achieve an accommodation between ethnic minorities, pressure groups and the state. The Commission's brief was to promote equality of opportunity by persuasion, public education and by establishing good relations "between different racial groups as well", via community affairs and liaison. Instead its first chairman antagonised these groups and undermined their confidence in the CRE.

On 5th July 1976, David Lane informed the House of Commons, Britain could set an example to the world in race relations, "but this will depend more than anything else on reassuring the white majority that immigration is being strictly controlled at a manageably low level by a determined Government". Lane added to this by giving his support to strengthening the Home office special intelligence unit. This had gained public notoriety for harassing black communities on the pretext of searching for illegal immigrants. Internally industrial relations were strained with allegations of racism levelled at senior management. Two prominent black employees won unfair dismissal cases when they were not offered senior jobs. This

⁵⁸ Home Affairs Committee, Session 1981-82, Vol.1, *Commission for Racial Equality*, p.x, 23rd November 1981, HMSO, London.

⁵⁹ *New Statesman*, January 1982

⁶⁰ The recent *Macpherson Report* (March 1999) finding that the police were institutionally racist suggests these claims may have had some justification.

led to the resignation of the Chief Executive who had previously been with the Race Relations Board. The local trade union, ASTMS, attacked the investigations division as "a white power base, a sort of elite within the Commission and race relations". They questioned their commitment to equality of opportunity and charged them as people who "constantly used their position to frustrate and undermine the work of the black staff!"⁶¹ They claimed investigations would be dropped when employers such as Massey Ferguson, who had six black employees out of a total workforce of 5,000 in 1978, argued important contracts might be endangered by adverse publicity. A former Deputy Chairman of the CRE, Pranal Sheth commented "we've spent the last 25 years promoting, educating and exhorting in the race relations field. Only through direct legal action with the evil of racialism be exposed". He added the CRE took a lenient approach to "avoid alienating the white community".⁶² Whatever the merits of the opposing positions it is clear that the aspirations of those effected by actual or perceived discrimination were well beyond what the law offered and the CRE had delivered.

Lane opposed the scrapping of the infamous "sus" laws, even though the Commission itself had called for their abolition. In the Commission's first research report on racial conflict in London's East End, *Brick Lane and Beyond*,⁶³ the role of the National Front in attacking the Bengali community was not mentioned. Officials claimed key passages recording alleged brutal attacks by the police on young black girls were omitted. As the CRE endeavoured to promote harmony, violence and discrimination against ethnic minorities became of major public concern and debate. This series of events led to the enquiry by Parliament. Following the Home Office report, Lane retired in 1982. He declared the "criticism has been excessive", and "discouragingly hostile".⁶⁴ Peter Newsam, an immigrant of French and West Indian descent, replaced him in September 1982. The CRE was reorganised the same year.

A fresh start.

⁶¹ *New Statesman*, 13 July 1979.

⁶² Cited in Grosskurth, Anne, 'Toothless Watchdog', March/April 1983, pp. 19-24. *Roof, Shelter*.

⁶³ See *Racial Harassment in London*, Report of a Panel of Enquiry Set Up by the Greater London Council Police Committee, 1983, GLC 1984.

⁶⁴ Speech, 28th March, 1982, UK Immigrants Advisory Service.

Newsam had been head of the Inner London Education Authority. He was responsible for a budget of £800m and 80,000 staff. He took a 25% cut in salary to take over the CRE with a budget of £8m and 200 staff riddled with discontent, suspicion and severely demoralised. In one of his first public statements he declared his intention to enforce the law and confront white prejudices. "The real problem after all is with the white community. If it wasn't, we wouldn't have a problem".⁶⁵ Six months later he was still as forthright when he criticised the government's response to race riots as purely political "but they're not interested in the causes at all".⁶⁶ Newsam also criticised the Race Relations Act as seriously defective and cumbersome. This was a view shared by the idiosyncratic former Master of the Rolls, Lord Denning. He said:

"the machinery of the Act is so elaborate and cumbersome that it is in danger of grinding to a halt. I am very sorry for the Commission, but they have been caught up in a spider's web by Parliament from which there is little hope of escaping."⁶⁷

Concurrent with these developments were policies and changes within local government, particularly within labour controlled areas of inner London. The leading organisation that provided leadership during what were to become the Thatcher years, was the Greater London Council (GLC). The measures it adopted and pursued both in terms of the awarding of contracts, recruitment and public education provided a significant example for the CRE itself. As such it is worth noting briefly its role. Under the leadership of Ken Livingstone MP now Mayor for London, the GLC implemented radical employment, transport and social policies. The labour controlled GLC acted as a catalyst for London local authorities to develop and promote programmes of positive action in recruitment and introduce equal opportunity sections into their organisations. Livingstone said:

"what has been lacking until recently has been a reluctance to admit that racism and discrimination have been deeply institutionalised. And this has become manifestly more clear through the impact of successive

⁶⁵ *The Observer*, 17th January, 1982.

⁶⁶ *The Guardian*, 9 March, 1983.

⁶⁷ *Regina v Commission for Racial Equality, ex parte Hillingdon London Borough Council*, Court of Appeal, Lord Denning, Judgement 16th July 1981, see *Times* report.

government's policies on race relations, immigration, nationality, policing and inner-city deprivation".⁶⁸

During 1982-83, the GLC's Ethnic Minorities Unit allocated £95,000 in grants to ethnic community, medical, arts, advisory, housing and other projects. Interestingly the GLC took the lead in giving recognition to the Irish community as an ethnic minority. Race was made a public issue as the GLC sought to educate and challenge racist practices. In terms of housing for example the GLC's campaign slogan was, "Black people Do Not Cause Slums They are forced to live in them". While a number of Labour controlled boroughs actively sought to eliminate discriminatory practices in the management and allocation of houses a number of high profile investigations and incidents indicated the extent of the problem.⁶⁹ In Tory controlled Hillingdon for example the Council's housing chairman put a Kenyan Asian family into a taxi on their arrival at Heathrow and dumped them on the door of the Foreign Office. Lord Denning rejected a request to investigate Hillingdon by the CRE.⁷⁰ A long-winded investigation between 1977-81 by the CRE in Rochdale discovered Asians were twice as likely to be refused a mortgage as whites. The Building Societies named in the report included the Halifax, the Middleton, the Bradford and Bingley, the Burnley and the Provincial.⁷¹ A later analysis by the CRE found that generally, ethnic minorities live in accommodation that is more overcrowded, run down and on public estates regarded as 'difficult to let'.⁷² Within such a context the GLC and other local authority organisations did much to raise and drive forward a broad equality agenda within local government. Pressure groups remained critical of the CRE's failure to fully apply its limited legislative arsenal and expressed little optimism that real measurable change would be achieved.⁷³

However as already indicated the CRE in its research was ready to campaign for stronger legislative powers to meet its critics and publish wider based hard hitting reports beyond the immediate brief of employment. *Living In Terror* for example

⁶⁸ *Ethnic Minorities*, GLC, February 1983.

⁶⁹ See CRE Investigation Reports in London Boroughs of Hackney (1984), Lambeth (1989), Tower Hamlets, (1988), Liverpool (1985,1989).

⁷⁰ 16th July 1981, *The Times*.

⁷¹ CRE, October 1985.

⁷² *Housing and Ethnic Minorities, Statistical Information*, CRE October, 1988.

provided a harrowing analysis of violence against ethnic minorities.⁷⁴ This report confirmed that the earlier findings of research by the Home Office had not diminished in scale or direction.⁷⁵ Some local authorities attempted to utilise existing laws innovatively. Section 11 of the local Government Act 1966 was utilised as a source of funds from the Home office to meet the special needs of Commonwealth immigrants. The GLC recommended the inclusion of their descendants to promote employment, training and positive action plans under the Race Relations Act. Under section 11 the Home Office would reimburse local authority spending up to 75% towards the cost of employing staff. Recruitment had to be for new posts representing a special provision for Commonwealth immigrants under Section 71 of the Race Relations Act and Section 37 and 38. Many London labour controlled authorities integrated Section 11 money into an overall coherent Race Equality Strategy. Section 37 and 38 allowed positive action where a particular racial group is under-represented. It allowed employers to provide specific training for that group and to encourage only members of that racial group to take advantage of this opportunity.

It became common in London for recruitment statements to indicate posts were covered by Section 38 and only applicants from ethnic minorities need apply. Other jobs were advertised under Section 5(2)(d) wherein being of a particular racial group was a genuine occupational qualification. The guide to the Act suggests social workers and personal services may be appropriate categories. This led to some social service departments recruiting "Black Social Service officers, Black Assistant Home Care Organiser, Black Team Leaders", etc. positive equal opportunity statements were made e.g. "Applications are welcome from people regardless of race, creed, nationality, disability, age, sex, sexual orientation or responsibility for children or dependants". Others stuck to the safer and terse assertion they were "An Equal opportunity Employer".

While this approach may have concealed many shortcomings they offered a more positive message to potential applicants. As the number of jobs funded by Home

⁷³ See *Caribbean Times*, *Gujarat and Roof*, Shelter, 1988, 1989 issues.

⁷⁴ *A report on racial violence & harassment in housing ... Living in Terror*, CRE September 1987.

⁷⁵ Home Office Report - *Racial Attacks*, HMSO, 1981.

office grants and restricted under Section 38, grew the government decided to impose heavy financial penalties. Hackney in London for example, which had spent £10m on a highly successful job training programme offering real jobs and work, found itself in 1988-89 searching to meet this deficit as government refused to meet the costs from Home office grants. The potential for reversing the pervasive institutional and economic racism which can characterise Britain was made acutely more difficult under such circumstances.

Contract compliance and local government.

In the USA contract compliance is a means of enforcement that is not encouraged by statute in Britain. The CRE's *Principles of Practice*, noted the objective of contract compliance "is not to enforce race relations legislation by excluding 'offending' companies from tendering for contracts".⁷⁶ Rather companies were to be encouraged by practical advice and assistance over time to provide equal opportunities. Clients seeking to promote an ethos of equality through their contracting arrangements had to rely on the issue of a voluntary questionnaire to obtain a general description of a company's practices. As a purchasing authority however it could not impose its will in this regard although it could ultimately remove a company from its tender list after a laborious process that in effect only demanded any such company declare its intent to offer equality of opportunity.

In the absence of clear enforcement laws, employers were left treading a very grey area. The GLC for example with 20,000 companies on its approved lists removed those contractors which refused to supply information, but was unable to identify them publicly due to legal difficulties.⁷⁷ Equal opportunity agreements were reached with 134 companies before the government abolished the GLC in 1986. The 1987 CRE Annual Report recognised this weakness. They noted the White paper that preceded the 1976 Act envisaged a strong role for contract compliance. The Chair of the CRE declared, "Contract compliance was also to be a major weapon, of which central government, in spite of our repeated representations, has

⁷⁶ *Principles of Practice*, September 1987, paras. 1,-5, 8-13. CRE.

⁷⁷ *Ethnic Minority/Contract Compliance*, GLC, May 1984, pp 16,17. See also *Ethnic Minorities in London*, 'The GLC's work to assist Ethnic Minorities', GLC, February 1983.

made no use, in striking contrast to its policy in Northern Ireland".⁷⁸ The general thrust of government policy was to ensure large clients such as public authorities did not consider 'non-commercial' matters when evaluating tenders for contracts.

The then Conservative Environment Minister, Patrick Jenkin, criticised the GLC for having removed 22 contractors from its list, including Rowntree Mackintosh. The GLC's annual procurements ran to £500m so its impact in terms of educating contractors and promoting equal opportunities in the workplace was potentially great. Jenkin condemned the use of this power to further racial or sexual equality.⁷⁹ This debate raged until 1989. The Local government Act 1988, removed any grey areas and largely halted any initiatives in the use of contracts. This included the elimination of clauses in contracts to use local labour in run down inner city areas. According to legal opinion given by Lord Irvine QC, to the Inner London Education Authority, a strong advocate of contract compliance, public bodies would be prevented from withholding contracts because of the contractors work-force composition and recruitment policy.⁸⁰ This meant that programmes run by large local authorities such as Sheffield and Birmingham that required contractors to employ a quota of local labour had to end. In the words of then local government Minister, Mr. Howard MP, the 160 and more local authorities boycotting South African goods and companies linked to South Africa, as part of their tendering process, would be prevented from taking "into account irrelevant factors".⁸¹ Employers such as Islington Council in London were taken to the High Court by the Building Employers Federation to prevent them as clients issuing standard contracts which provided for full access to company records to enable the Council to satisfy itself a contractor did not discriminate.⁸²

When Councils took active steps to promote equal opportunities they were subjected to tirades of abuse by the popular press. Rupert Murdoch's flagship, the Sun, led the way. The term 'loony left' was coined along with fabricated stories to discredit such policies. Lambeth Council in London for example, was pilloried for

⁷⁸ 1987 CRE *Annual Report*, June 1988, CRE.

⁷⁹ *The Guardian* 14th October, 1985.

⁸⁰ ILEA, Lord Irvine QC, July 1987.

⁸¹ Michael Howard MP, cited in the *Guardian*, 20th November 1987.

⁸² London Borough of Islington Council Committee papers, September 1988, see *The Guardian*,

conducting a campaign to meet the statutory quota for disabled employees. The Mail on Sunday claimed Haringey Council had banned bin liners because they were black. It also charged Brent Council with recruiting "Race Spies". They were actually race advisors who were recruited to comply with a Home Office directive when the council was Tory controlled. The Daily mail accused Camden Council of banning the term black coffee. Islington Council was lambasted in 1990 by the Sun because it funded a centre for battered women and a welfare rights agency. The latter received 75% of its funds from the government.⁸³ This insidious campaign entered the national consciousness in the sense that the main stream political parties distanced themselves from their local government counterparts and joined in their condemnation. By so doing they legitimised the tabloid message that ethnic minority groups were gaining an unfair advantage in the market place. The merit principle had become a tool to be utilised inversely to justify protecting the particulars of a white market.

The CRE continued in its unsuccessful efforts to press the government to introduce compulsory monitoring of recruitment and contract compliance while the evidence of pervasive discrimination mounted. Research by the Department of Employment found the unemployment rate for West Indian men was 20.6%, Asian men 16.9% and 9.7% for white men. For women the respective figures were 14.5%, 17.9% and 8.7%.⁸⁴ The Policy Studies Institute found over half of the black unemployed men were unemployed for more than a year as compared to a third of white unemployed men. When educational qualifications were taken into account, black workers still fared worse than whites. Average weekly earnings were 15% lower e.g. white male £129, West Indian £109.20, Asian £110.70.⁸⁵ These patterns were similar to its first land mark study in 1976.⁸⁶ The Employment Institute report on the UK labour market carried out by the PSI concluded that higher rates of unemployment reflected active discrimination by employers rather than a marked difference in qualifications. The PSI noted the levels of discrimination did not appear to have changed since the mid-1970's.

23rd September 1988.

⁸³ Association of London Authorities, Islington Council, 1992.

⁸⁴ *Employment Gazette* 1984.

⁸⁵ *Black and White Britain*, Policy Studies Institute (formerly PEP), London 1984.

⁸⁶ *The Facts of Racial Disadvantage*, PEP, London, 1976.

The government's Manpower Services Commission recorded race bias in training programmes for the unemployed. Its report *"Ethnic Minorities and Job Centres"*, found 47% of blacks and 24% of Asians alleged they had been discriminated against when looking for employment at Job Centres. Between April and August 1986, 69% leaving the one-year youth Training Scheme found employment but only 48% of black leavers and 52% of Asians. The MSC reported 30 firms to the CRE and achieved local resolutions in 102 other cases during 1986.⁸⁷

A CRE survey in 1987 indicated low numbers of black people training to be nurses. While 5% of the economically active population is black and the national figure for general-nursing trainees is 3% these figures concealed wide disparities. For example in Greater London, where the ethnic population is 14.6%, only 1% of trainees at three leading London schools were black. The equivalent figure for a school in Slough was 5.8% where the ethnic population was 31%.⁸⁸ These findings were reinforced by later research carried out by the Medical Practitioners' Union.⁸⁹ In 1988 the CRE issued a report which found St. George's hospital medical school, part of London University, guilty of discrimination. The former dean and vice-dean, Dr. Franglen designed a computer selection system that refused sixty candidates a year because they were black or female, from 1982-83 to 1985-86. The CRE did not press prosecution when the new Dean scrapped the programme and assisted the investigation.⁹⁰

Wider Afield.

In other fields such as education a CRE study *Learning in Terror*, (February 1988) catalogued a record of malicious injustice. Bewildered school children found

⁸⁷ *Ethnic Minorities and Job Centres*, MSC, February 1987.

⁸⁸ CRE Report 1987.

⁸⁹ The Medical Practitioners Union which is part of the general technical union MSF, found that over a ten year period, 1988 to 1991, almost 60% of doctors called to face discipline before the General Medical Council were from ethnic minority groups. Of all doctors practising, around 18% are from ethnic minorities. The report also suggested ethnic minority candidates were three times less likely than whites to get into medical school and when qualified, three times less likely to become consultants. The GMC responded by questioning the validity of the data and asserted any action taken by itself was "free from racial discrimination". MPU, March 1994.

⁹⁰ St. George's Hospital Report, CRE, 1988.

themselves the victims of racial insults and assaults ranging from maiming to murder. Only 47 of the country's 115 Local Education Authorities had any policies directed at addressing these fundamental problems. A campaign by parents in Dewsbury, Kirklees succeeded in allowing 26 white families to withdraw their children from Headfield Junior school because it was over 90% Asian. The conservative Education Minister, Kenneth Baker, promised to change the law so those parents could exercise the right to choose. In 1988 the London Metropolitan Police reported a 25% increase in racial harassment during 1987. Scotland Yard recorded 2179 allegations that included attacks, threatening telephone calls and intimidation.

Studies by the CRE have also found the potential for redress is slim. Compensation levels are low and re-employment almost non-existent. (CRE 1986) In 1989 the CRE publicly announced in its annual report that due to a lack of funds it was forced to decline support for complaints of discriminatory practices in increasing numbers. The Society of Black Lawyers claimed in their submission to the Royal Commission on Criminal Justice that black defendants were being wrongly convicted by bigoted white juries after a biased summing up by judges.⁹¹

Conclusion.

The ethnic minority population of Great Britain is approximately 4.5% (2,432,000) of the general population. It is concentrated in England, especially Greater London (over 40%) and the Midlands. The CRE in successive Annual Reports made the point that the overall position of black people in the labour market remains unsatisfactory. Their unemployment rates have tended to be twice that of the white population leading the CRE to conclude, "All the evidence suggests racial discrimination is a major contributory factor to this situation".⁹² The 1976 Act has been regarded as inadequate in providing equality of opportunity in employment and tackling wider issues of discrimination. Although the CRE throughout the 1980s and 1990s campaigned for stronger legislation even the

⁹¹ May 1992. It is interesting to note that of the 127,127 police officers in the UK, 1,592 (1.3%) were from ethnic minorities at this time.

⁹² CRE *Annual Reports*, 1988.

simple expedients of compulsory monitoring, contract compliance and the financial capacity to enforce the law proved consistently beyond it.

The notion of "unfair deprivation" (Lester and Bindman), that is, an act which is necessarily detrimental, to a person or group, or is a "result of action rather than reflection",⁹³ has remained prevalent in Britain. The black and ethnic minority groups in Britain tend only to have a voice in the Midlands and London. This however remains rather mute reflecting their relative small percentage in Britain. Their potential similarity with Catholics in NI is the readiness by which their middle class seek economic and political assimilation. Unlike NI however they do not have the potential to become the predominant group whose mores and culture could prevail or dominate existing traditions and culture. As such the prevailing political liberal tradition can afford to offer an accommodation that is only seen as threatening by those who can be readily marginalised as racist. The British market can offer an entry place on merit without detriment to the prevailing market relations. The evidence provided above however indicates that overall those that control entry to the market place have chosen not to do so. One of the challenges *New Labour* has set itself is to offer an inclusive agenda that creates the momentum for constant accommodation by putting "citizens first" in a modernised, modern Britain.⁹⁴

As with the USA however this remains an objective where any lack of attainment will not challenge the status quo or destabilise significantly the market place. In NI matters are somewhat different.

Section III.

NI: The 'Black' North.

Colour is an important element of life in Northern Ireland. The kaleidoscope of colours however indicate a political and religious affiliation rather than an ethnic origin. Black is synonymous with the loyalist world of orange and blue. This is derived from the loyal "Black Institutions" which are the higher ranks of the

⁹³ Park. R, *Race and Culture*, Free Press, USA, 1958.

Orange Order, the colours of the union jack and William Prince of Orange. Green is reserved for the Catholic and nationalist as the colour of Ireland. The Irish tricolour also includes orange as a symbol of unity with green subject of course to there being peace between the two hence the white strip in the tricolour. Discrimination or "colour" therefore has been a consistent characteristic on patterns of opportunity in employment, housing, health, welfare, and the exercise of power as well as the colour of kerbstones. This small excluding society has been constantly riven apart by the inability to reconcile these inherent contradictions. The 1976 Fair Employment Act was one endeavour aimed at making the colours run more smoothly. The palette was prepared by a Working Party established in 1972 to report on "what steps should be taken to counter religious discrimination where it may exist in the private sector of employment". The report was published in 1973 and became known as the *Van Straubenzee Report* after the Conservative MP who chaired its deliberations. The local Ministry of Health and Social Services appointed the Working Party's 15 members that contained a minority of Catholics.

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The Van Straubenzee Report.

The Working Party stressed the need for a voluntary and conciliatory approach to ending discrimination in employment. While commending, "policies of conciliation and persuasion", it was accepted, "they will be inadequate", without the force of the law. However they stressed, "Sanctions ought not to be the order of the day".⁹⁶ Quotas in employment were dismissed on "moral and practical grounds". They saw "serious objections of both a moral and practical nature to both quotas and benign discrimination. One of their objections was that quotas were regarded as involving the abrogation of the very principles, which they seek to assert, and which the law would aim to establish. To be effective in their view required religious discrimination.

⁹⁴ The Race Relations (Amendment) Act 2000 widened the scope of the 1976 Act to include all functions of public authorities – hospitals, schools, local councils, ministers and the police. It came into force on April 20001. See *Race Equality in Public Services*, Home Office, February 20001.

⁹⁵ *Report and Recommendations of the Working Party on Discrimination in the Private Sector of Employment Belfast*, HMSO, 1973.

“They involve an inherent contradiction between a completely and genuinely open system of employment, which requires recruitment and treatment on the basis of merit or suitability, and a closed system which by definition requires discrimination on the basis of religious persuasion”.⁹⁷

They added:

"Perhaps the most serious objection, however, is that the effect of quotas would not be to reconcile the communities in Northern Ireland but on the contrary to reinforce and in some measure to perpetuate the divisions between them. The concept is fundamentally at variance with any philosophy that seeks to create an open or mixed society. ... There can be few policies which are more likely to produce a counter reaction." ⁹⁸

This stance is as an overtly political one rather than a moral one. It indicates that political factors, as much as, or greater than philosophical concerns, influenced their deliberations and proposals. The relationship between quotas and merit on the American model was not fully explored nor does it appear was the American practice of utilising quotas as an objective with specific time scales and targets for change. While reference was made to American example it was generally to dismiss it as not applicable to NI. Thus the effect of the Black American lobby on the Democratic Party in securing legislation and the experience of developing platforms of joint responsibility to devise local and national training courses that would enable the acquisition of skills previously denied and the targeting of such opportunities on specific groups was ignored. The use of quotas as affirmative action programmes with targets to set a measurable and public yardstick against which the claims of private and public employers may be evaluated were rejected. The potential or challenge that quotas would bring in endeavouring to reverse the pervasive historical patterns of inequality was deemed not appropriate for NI. The Working Party also considered “contract compliance legislation unnecessary”.

Given Cameron’s consideration to devise mechanisms that offered protection against discrimination while securing the loyal acceptance of the Constitutions of N. Ireland, the Working Party’s dilemma was how limited should such enforcement laws be without losing the potential for an accommodation with

⁹⁶ *Van Straubenzee*, 1973: p.8.

⁹⁷ *Ibid.* p.11.

⁹⁸ *Ibid.* para. 53, p.12.

Catholics. Sanctions which made discrimination a criminal offence with fines and imprisonment were ruled out as the "most likely to provoke sectarian hostility in industry and thus be counter-productive".⁹⁹ The British Government did not take up a suggestion that actual physical intimidation should attract criminal penalties. Although the jargon of "affirmative action" was adopted its intent, meaning and application did not travel across the Atlantic in their original form. Specific programmes of action were side-stepped by claiming "Precise definition incurs the risk of appearing to limit potential scope".¹⁰⁰ A Fair Employment Bill was eventually published on the 18th December 1975 and a Fair Employment Act was introduced on 22 July 1976. The Act created the Fair Employment Agency (FEA) to promote equality of opportunity and work to eliminate discrimination.

The Fair Employment (NI) Act 1976.

The Fair Employment Act (NI) 1976, (the Act) came into effect rather belatedly on the 1st December 1976 considering the levels of violence and recommendations made by Cameron seven years earlier. The Fair Employment Agency was established with an initial staff establishment of eight in September 1976 responsible for promoting equality of opportunity in employment where religious and/or political prejudice may lead to discrimination. Sex discrimination was made the responsibility of the local Equal Opportunities Commission under the 1976 Sex Discrimination Order. The Act offered no protection against discrimination in housing, education, the criminal law, or against sectarian harassment and victimisation by the police and military, nor was any redress provided for or against the promotion of racist/sectarian literature. The Act also excluded any protection against racial discrimination perpetrated against the North's small ethnic population.¹⁰¹ Proposals to remove employers from the equal opportunity register of employers "if a subsequent finding of discriminatory practice", were made was rejected by the Agency itself as unnecessary and counterproductive. This remained a matter of public policy for the life of the Act and the Agency. The issue of

⁹⁹ Ibid.

¹⁰⁰ Ibid. p.15.

¹⁰¹ The NIO estimated the North's ethnic minority population to be around 10,000. Chinese are the largest grouping at around 5,000 followed by a 1000 strong and relatively recent Indian community and 1000 traditional Irish Travellers. NIO, 5th December 1992.

contract compliance was also absent from the Act.

The Agency's primary duties were to educate, research general patterns of employment, conduct enquiries into individual complaints of discrimination and initiate formal investigations. The latter represented a powerful tool not available to the CRE. It enabled the Agency to conduct formal investigations under Section 12 of the Act into the composition of an employer's workforce and its recruitment practices. Under Sections 13 and 27, recommendations and remedies could be sought following a broad investigation or response to an individual complaint. It had the powers of the High Court to subpoena evidence - an option never used during this first Act- from uncooperative employers. Appeals against an Agency finding in terms of individual complaints were to the County Court. Appeals against Agency directions following an investigation under Section 12 and 13, were to an Appeals Board. It was six years before this body was established due to the Agency's lack of work in the field of investigations.

There was also a duty to maintain and monitor a Register of Equal Opportunity Employers and Organisations (the Register), and signatories had to sign a Declaration of principle and Intent (the Declaration), signifying they would "promote and protect equality of opportunity". To become an equal opportunity employer required no more than a telephone call and completion of a form. No vetting procedure, even against employers with a sectarian reputation, was utilised. A power which the Agency failed to use was the ability to restrain an employer or agent from publishing advertisements or statements, which "could reasonably be understood as indicating an intention" to discriminate (Section 33). Exceptions to the Act included employment in private households, school teachers, the clergy and charitable acts. Another important exception was Section 42 (S42). This empowered the Secretary of State to issue a S42 certificate, which stated a given act was done "for the purpose of safeguarding national security or of protecting public safety or public order". There was neither right of appeal nor any requirement to explain the grounds. This rapidly became the subject of political criticism from the SDLP, Sinn Fein and loyalists as a mechanism for concealing discriminatory acts against Protestants and Catholics who may have had a family or activist connection. The Act was introduced in stages: those employing 25 or

more which was equivalent to approximately 1700 employers; from the 1st September 1978, all employing 10 or more; and from the 1st September 1979, all employers.

The Agency Board were appointed by government through the former NI Department of Manpower Services. Appointments were initially for three years. Some members served three terms and its full time chairman, a Mr. Robert Cooper, remained unchanged from 1976 until his retirement.¹⁰² The Board was composed of a variety of unionists, a leading member of the UDA, Glenn Barr, trade union representatives from NIC/ICTU and several leading Catholics. The Agency's chairman recommended the UDA representative to government. He had played a leading role in the Ulster Workers Council that brought down the power-sharing executive. His organisation was responsible for planting bombs in Dublin and Monaghan that killed 33 and injured over a hundred. The UDA declared at the time that they were "very happy about the bombing in Dublin". They continued to be engaged in a campaign of sectarian murder and intimidation throughout Barr's tenure at the FEA. Coming from Derry he became its self-appointed representative within the FEA and served as a member of the complaints committee that determined whether unlawful discrimination had taken place. Individual Catholics would have to be particularly resolute in the pursuit of their grievance as they would have to endure scrutiny by a committee with the UDA present on a body established to promote equality of opportunity.

Loyalist reaction to the 1976 Act was hostile. Unionist Councillors had themselves photographed tearing up the Act; the CBI condemned it as unnecessary and refused to sign the voluntary equal opportunity declaration as did many government sponsored quangos. Unionist hostility appears to have reflected a view that the Act was a challenge to Protestant hegemony and could lead to the institutional undermining or fracturing of the integrity of their own solidarity and self-confidence. However it may be argued (Cameron) that in line with laws elsewhere, this attempt by the British had, at least as one of its objectives, an attempt to restore cohesion to the North by giving Catholics, particularly the middle class a

¹⁰² Mr. Robert Cooper was a member of the Unionist party, then the Alliance party and a member of the short-lived Power Sharing Executive brought down by the 1974, UWC strike.

vested interest in this society. For this project to be successful Catholics had to see institutions being introduced which had as a primary objective the development of some form of equity in the market place. However, at this stage, successive government ministers rejected the introduction of strong aggressive forms of enforcement. This in turn undermined the ability of the Act to serve as a credible means of coagulant for aspiring Catholics. It would also prove a flaw fatal to the implementation of the Act and the credibility of the Agency. In its first Annual Report, Cooper stressed, "the considerable importance on the educational function", to generate "a commitment from both sides of industry as well as from the general public to the ideal of Equality of opportunity". He added:

"All obstacles which prevent Equality of Opportunity and so prevent the use of the talents of all our people in the most appropriate places are detrimental to the whole economy. We have also been anxious to make the point that whereas positive religious or political discrimination may be one obstacle, we are concerned about other obstacles that prevent Equality of Opportunity. Such factors as the accepted concepts about firms, myths, traditional methods of recruitment of labour, traditional community patterns of employment, training facilities, the consequences of past discrimination, transport, location of industry, fear and violence are important obstacles which concern us".¹⁰³

Thus while the scale of the challenge was clear to all the solutions proved insufficient. This failure would give rise to bitter internal incriminations and disillusion among FEA staff.¹⁰⁴ In one sense the Act partially met Cameron's objectives, namely his concern that the provision of remedies to protect against discrimination "will in no sense endanger the stability of the constitution or afford opportunity to ill disposed persons to work to undermine or destroy it". An Act with significant exceptions and weaknesses was not likely to undermine the institutions of NI. By the same token it did little to disarm or incorporate its opponents into accepting the integrity of the Orange State. The Act also failed to meet Cameron's objective of pursuing equal opportunity firmly and fairly by which, "a significant and important step will have been taken towards eliminating causes of division and sectarian strife and in helping to unite the people of Northern Ireland".¹⁰⁵ The evidence for this would be unchanging patterns of

¹⁰³ FEA *First Annual Report*, 1976-77, p.7, 30th November 1977, HMSO.

¹⁰⁴ See chapters 7 and 8.

¹⁰⁵ *Cameron Report*, p.58.

inequality; the controversy over allegations of appeasement and cover up in FEA investigations; the conclusions reached by the NIO and those commissioned to analyse the efficacy of the Agency that the FEA had made no discernible progress. These matters are assessed in later chapters.¹⁰⁶

A Fresh Start?

Legislative changes were made in response to a barrage of international and local criticism that patterns of inequality in the public and private sectors of employment remained as entrenched as at the time of Cameron. For example by the mid-1980s government research demonstrated patterns of inequality for Catholics had remained unchanged.¹⁰⁷ As criticism of the FEA's record mounted coupled with the start of a major Irish-American campaign under the name of Sean MacBride¹⁰⁸ that challenged Britain's role and intentions a series of reports were commissioned into the workings of the Act. In January 1985, the local Standing Advisory Commission on Human Rights was given a brief by the NIO to undertake a:

"major review to examine whether in practice the law gives adequate protection against discrimination on the grounds of religious belief or political opinion and whether there exists equality of opportunity in Northern Ireland".

SACHR in turn commissioned the London based Policy Studies Institute (PSI) to carry out an analysis "of differences in rates of unemployment and job levels between Protestants and Catholics".¹⁰⁹ The results of both these reviews were published in October 1987. They confirmed the local labour market remained a partisan one and concluded that the Act was insufficient to tackle the scale of the problem.¹¹⁰ On the 17th September 1986, the government published a consultative document *Future Strategy Options*. This included detailed analysis of the employment differentials between Catholics and Protestants from 1971 to 1985. The reports' data showed that:

¹⁰⁶ See Ch. 7., *FEA INACTION*.

¹⁰⁷ Policy Planning Research Unit, *Monitor*, No.2, June 1985, DED, NI.

¹⁰⁸ The MacBride Principles Campaign are assessed and explained in Chapter 8.

¹⁰⁹ *Report on Fair Employment, Religious and Political Discrimination and Equality of Opportunity in Northern Ireland*, SACHR, Cm 237, HMSO October 1987.

¹¹⁰ The detail of the reports are discussed in Chapter 8, *The Government's Response*.

“between 1971-85 the catholic community’s disadvantage in employment remained both quantitative and qualitative obtained throughout the Province (even in areas of relatively high employment) and persisted despite progressive conversion of educational attainment between the two communities. The overall unemployment rate of Catholics remained double that of Protestants; in 1984/85 catholic males experienced levels of unemployment almost two and a half times that of Protestant males; and catholic females experienced levels of unemployment approximately one and a half times those of Protestant females.”¹¹¹

The options presented indicated an attempt to develop a more coherent policy for equality of opportunity in employment in the longer term. It reiterated governments’ opposition to quotas as being “inconsistent with the merit principle”. The government held a “basic moral objection to any preferential approach in which the end is considered to justify the means” They added that quotas would “abrogate the principal it seeks to assert by actually requiring discrimination - by promoting inequity in the name of equity”. The report accepted that no significant progress had been made in any equality of opportunity dimension”.¹¹² This was followed in April 1988 by Fair Treatment For All for distribution in the US to counter the MacBride Campaign¹¹³ and a new Guide to Effective Practice¹¹⁴ The documents confirmed government's intention to "introduce new legislation as soon as possible". A White Paper was published setting out the details of new legislation on 25th May 1988. The Secretary of State announced:

"Its key features will be compulsory monitoring as the basis for affirmative action measures where necessary, the outlawing of indirect as well as direct discrimination, use of the criminal as well as the civil law in enforcement, the use of Government's economic muscle to support good practice, and the reorganisation of the existing Fair Employment Agency into a new Commission with increased resources".¹¹⁵

A task force of Ministers, Agency members, staff and chairman, trade union officials and local politicians were sent out to the US to assist Britain sell the

¹¹¹ Equality of Opportunity in Employment in Northern Ireland, *Future Strategy Options*, A Consultative Paper, DED, NI, 17th September 1986, HMSO.p.5.

¹¹² Ibid. pp.20,21.

¹¹³ Northern Ireland, *Fair Treatment for All*; Equality of Employment Opportunity in Northern Ireland; Fair Employment in Northern Ireland and the MacBride Principles; NIO, April 1987.

¹¹⁴ Religious Equality of Opportunity in Employment, *Guide to Effective Practice*, DED, September 1987.

¹¹⁵ NIO Press Statement, Fair Employment in NI Government Publishes White Paper.

package and counter the MacBride Campaign. On the 15th December 1988, a new Fair Employment Bill was published. This was approved by Parliament late in July 1989 and became law in January 1990. Sinn Fein fair employment spokesperson Mitchell McLaughlin said the new law “has more to do with defusing the MacBride campaign in the US than seriously confronting the fundamental evil of discrimination”.¹¹⁶

Labour's former opposition spokesperson on Northern Ireland, Kevin McNamara MP, stated during the preparation of this Bill declared, "I simply do not trust the DED to implement effective legislation to combat inequalities. For almost ten years it tolerated massive ongoing inequality with complacency".¹¹⁷ In reply Tom King MP, then Secretary of State, rejected this but conceded, "It has now become widely recognised that the regime for fair employment, enacted under a Labour Government in 1976, has not been effective as well as we would all have wished". He also confirmed the government's initiative was a direct response to US pressure. King asserted, "the measures we will be introducing will be more effective than the MacBride principles could ever be in assuring equal treatment for all." A commitment was given to review the effectiveness of the legislation after five years.¹¹⁸

At the press conference to launch the Bill on 15th December 1988, King said the legislation was a demonstration of the government's determination to deal with the "last great area of concern and grievance", discrimination in employment. The other areas he identified, electoral gerrymandering and housing provision are now "very different and transformed". He said it must be "absolutely clear there is to be no discrimination in Northern Ireland and it is in the interests of every single person in the province that there is equal opportunity for all".¹¹⁹

The Bill established a new Fair Employment Commission to replace the Fair Employment Agency and introduced a new Fair Employment Tribunal. The 1976

¹¹⁶ Op.cit. Northern Ireland, *Investor Responsibility Research Centre*, Washington, News, September 1989.

¹¹⁷ Kevin McNamara MP, 28th November 1987.

¹¹⁸ Tom King MP, Secretary of State, 3rd December 1987.

Act was amended to reflect these changes leaving the Commission to monitor and measure patterns of employment, and conduct educational activities. The new tribunal took over from the Agency in hearing individual complaints. It has the added power of imposing fines against employers who fail to adhere to directions from the Commission. Indirect discrimination became illegal for the first time and “affirmative action” was couched in the vague and undefined concept of “fair participation”. King asserted, “this is the strongest and clearest statement of aims of any anti-discrimination legislation in the UK”.¹²⁰

The law failed to include mechanisms similar to the Race Relations Act that permitted positive action by providing ‘client’ orientated training in the general sense and at specific points of employment. Nor was the possibility of recruiting specific people where it was considered the services may be provided most effectively “by a person of the same racial group”.¹²¹ The Fair Employment Act 1989 simply referred instead to training the unemployed in areas where unemployment is exceptionally high. Training was restricted to the unemployed. The potential for targeting specific groups by religion and the setting of goals and timetables for the recruitment of specific groups was excluded from the legislation. Given the serious conflict that forms the backdrop for this legislation and the contemporary and historical patterns of inequality it was a critical shortcoming to exclude measures to change the composition of the existing workforce over time.

The government estimated labour turnover averaged 20% with 100,000 vacancies a year. SACHR in its Report on Fair Employment urged the government to establish “the goal which they would wish to achieve in five years”. SACHR suggested the government should aim to reduce unemployment differentials between “the male Catholic unemployment rate and the male Protestant unemployment rate from two and a half times to one and a half times within five years”.¹²² The government rejected general and specific targets. Instead it referred to the importance of its new concept, “employment equity”, which it failed to

¹¹⁹ Tom King MP, Secretary of State, introductory remarks at press conference. See Graham, D. “Mutton dressed as lamb”, *New Society/Statesman*, 23/30 December 1988.

¹²⁰ *Fair Employment in Northern Ireland*, Key Details of the Bill, DED, NI, December 1988.

¹²¹ *Race Relations Act 1976*, S37,38 S5(2)(d).

define clearly.¹²³

Public sector employers were automatically registered with the FEC. Private concerns employing ten or more were required to register - for the first two years only those with 25 employees or more were required to register. Employers are required to submit an annual monitoring return. Employers with 250 or more employees are required to monitor and submit returns on applications received. Failure to comply with these requirements became a criminal offence. The FEC was thereby placed in a position to monitor employment practices more effectively and speedily than the FEA.

The Commission was given a default power that enabled it to serve notice that an employer was not qualified to accept an offer of a public contract or if a public contract was already engaged in, the public authority has to take steps to ensure "no work is executed or goods or services supplied for the purposes of the contract by any unqualified person". These provisions were significantly weakened by a caveat allowing the Secretary of State and any Northern Ireland department to use the services of a discriminatory employer when it is "in the public interest" or it would otherwise be disproportionately expensive, or "for the purpose of safeguarding national security", and protecting "public order."¹²⁴ The security exclusion includes discriminatory acts against the individual. A certificate blocking any investigation issued by the Secretary of State will continue to impede the pursuit of justice without redress.

The Fair Employment Tribunal would hear individual cases of discrimination and appeals against directions made by the Commission. It also enforces those directions as a statutory body with the power to award damages and issue orders of compliance when an employer failed to comply with a direction made by the FEC in an investigation. In the latter case the tribunal could impose cash penalties up to £30,000 on employers who breach its orders. Any breach of these orders can be referred to the High Court that can impose unlimited fines or imprisonment, or

¹²² Religious and Political Discrimination and Equality of Opportunity in Northern Ireland, *Report on Fair Employment*, SACHR, October 1987, HMSO, Cm 237, paras 4.7, 4.8, p.42.

¹²³ The concepts of equity and merit are discussed in Chapter 9.

both. The previously secretive excesses of the Agency however were duplicated in the tribunal. The hearing must be in private and the identity of sectarian or discriminatory employers are to be concealed. While there may be grounds for protecting an individual's identity, should they request it, the grounds for maintaining this veil of secrecy for employers which began in 1976, is difficult to square with the broader educational role that should have as its core changing the culture of the workplace. This makes it exceedingly difficult to promote Cameron's original goal of promoting public confidence in the institutions of NI. The procedure ensures debate on discrimination is neither a public or fully informed one. It also fails to meet the requirements of the 1989 Act to develop and promote public education on equality of opportunity. Employers may escape the negative consequences of discriminatory actions being in the public eye. The tribunal may prohibit the disclosure of any information, which will add to this concealment while simultaneously make it difficult if not impossible to monitor its own performance and the quality of its judgements. The tribunal's lack of accountability was a fundamental shortcoming as this process reinforced the difficulty of engaging in open debate and scrutiny as to the causes and consequences of discriminatory acts. Indirect discrimination was defined in terms of proportions which are considerably smaller than the proportion of persons not of that religious belief".¹²⁵ Race and housing remained outside the Act.¹²⁶

In the House of Commons, King had said,

"The legislation we shall bring forward will be tough. It will be much tougher than anything that has been done before, but it will be tough only for people who are determined to flout it".

He added, "At every level and in every respect we wish to root out sectarianism from society".¹²⁷ To achieve this however required the government to cross significant hurdles it had created. Firstly they had declared they did not wish to transfer hardship from one community to the other. Secondly the use of quotas was ruled out on moral grounds as detrimental to the pursuit of equity. Thirdly the

¹²⁴ *Fair Employment (Northern Ireland) Bill*, 6th June 1989, HL Bill 52, HMSO London.

¹²⁵ *Fair Employment in Northern Ireland, Key Details of the Act*, DED, NI, August 1989, HMSO Belfast.

¹²⁶ Proposals to include race were brought forward seven years later under the 1996 review.

¹²⁷ NIO Press statement, 1st July 1988.

concepts of “fair treatment” and “merit” although presented as moral arguments were no more than those of political expediency. For example, the government explained that:

“ to set merit aside and to make appointments or promotions on the basis of favouring one religious group over another would be grossly unfair to the individuals thus excluded. It would also institutionalise bad practice rather than good and it would tend to exacerbate sectarian divisions rather than heal them. The fact that some would see it as being done from a good motive, e.g. to counter balance historical disadvantage would make it no less inequitable or unsatisfactory’’.¹²⁸

This is the core of the problem. This argument gains its veracity from its accuracy. Within the context of NI as historically constituted to do otherwise would be to undermine its existence. Thus in order to manage the situation, the government must appeal to popular notions of fairness and merit as self evident axioms that can be accepted in themselves as concepts and practices. The problem however is that once applied to NI they carry with them the weight of historical and contemporary inequities that have proven to be the source of the conflict. As such the most the government can hope for is to persuade a significant enough number of Catholics that the deal is good enough for them. The opportunity to meet their aspirations will be given on the understanding that the institutions of NI are accepted within the confines of the UK. The presentation of a political reality as a moral objective does not conceal the plain fact that such morality only gains its credence by being placed within a unionist paradigm. The government may indeed use its legislative muscle to police this arrangement but it significantly does not undertake to do more than that. Thus while a fresh start was made in 1990 with a new Act and Commission the starting point remained remarkably similar to Cameron in 1969. Violent conflict, employment differentials determined by religion and a lack of consensus over the institutions of the state.

Patterns of inequality under Direct Rule have remained constant as measured by successive Census reports, labour force surveys and Continuous Household Surveys (CHS) carried out by government. For example the 1983-85 CHS showed the average male unemployment rate was 14.9% for Protestants as compared to

¹²⁸ *Fair Employment in Northern Ireland*, May 1988, p.13, HMSO, Cm380.

35.1% for Catholics. For each socio-economic group the distribution of economically active males *within* their respective religious categories showed broad similarities. For example 17% of Protestant males belonged to the professional and managerial group compared with 9% for Catholics; 42% of Protestant men were in skilled manual occupations as compared to 45% for Catholics. While the rate of unemployment across religion differed radically so did the rate of unemployment *within* religions. According to CHS findings 12% of Catholics in professional and managerial occupations were unemployed as compared with 58% of those in the unskilled manual occupations.¹²⁹ It may be concluded then, that in common with other parts of Britain, the life chances of productive employment are enhanced by class membership and its related attributes. Those in lower socio-economic groups will consistently experience greater degrees of casual, unskilled and manual employment alongside periods of long term unemployment. In the context of NI this disproportionate experience has the added dimension of religion and the nature of a society that constructed its socio-economic opportunities around a religious badge of identity. According to FEC monitoring returns that covered around 70% of employees for employers engaging 26 or more employees Catholics have increased their presence in non-manual, professional and managerial occupations to around 34%. This is around a 3.9% increase as the Catholic workforce increased by 1.8% in the public sector and 2.6% in the private sector in those companies monitored. The figures exclude the unemployed and reflect the general growth in the Catholic workforce which is around 40%. Catholics are also over-represented by around 25% among the long term unemployed and for those without qualifications the unemployment rate was over 30% or almost one in three.¹³⁰

Smith & Chambers (1991) while noting the influence of socio-economic group and other factors such as education, age, practical and academic qualifications, numbers of dependant children found that religion was “strongly related to the probability that a man will be unemployed” and that predicted rates for a typical skilled manual worker aged 25-44 with two children and no qualifications was

¹²⁹ Smith, David.J., & Chambers, Gerald. (1991) *Inequality in NI*, pp.164-66, Clarendon Press, Oxford.

nearly twice as high for a Catholic than a Protestant.¹³¹ It would appear then that within the dynamic process of a labour market the historical attributes of the Catholic middle-class continues to position them in a much stronger place to take advantage of any aggressive equality policies that seek to accommodate their skills and abilities into the unionist matrix. The Stormont regime had denied this opportunity. With the reintroduction of devolved government via the NI Assembly a second opportunity exists for unionists not to repeat the strategic mistake of their forefathers by excluding their natural allies. Employment and promotion in the public sector and related institutions will present highly visible opportunities to consolidate this alliance. Thus as with the US model, legal codes seeking to mediate access to the market alongside corresponding political developments and economic policies may deliver such opportunities. However the challenge will be to what degree will the prevailing forces of unionism and the British desire to maintain a stable alliance influence any equality agenda.

The American experience contained distributive and redistributive elements within a highly developed mobile market where the legitimacy of the state and its institutions were not under threat or at risk. Its failure to deliver a disproportionate share of justice via the redistribution of equity left significant patterns of inequality in employment unaffected. This had no effect on its political or market systems. In NI the economically active Catholic population is around 36%. If only a small proportion of Catholics can be successfully accommodated into the local labour market without the threat of further political instability or fundamentally altering the dynamics of the labour market then the separation by class and socio-economic group *within* each religious group may lead to a *political* separation that finds current political aspirations and alliances torn asunder. The historical record of NI and Ireland is that the Protestant class alliance is stronger than any Catholic or nationalist one. This is precisely because the Protestant class alliance has as its purpose the maintenance of NI itself. The equality model in NI is primarily distributive. It does not seek to offer equity via redistribution of opportunities on an individual or group basis. The inability to change the nature of the market place

¹³⁰ FEC, 1996, p.10. See also Monitoring Report No.5, Monitoring Returns, 1994, FEC, 1995; and SACHR, *Employment Equality in NI*, Vol.II, Ch. 1., p.4, pp.2-25. 1997.

¹³¹ Smith, David. J.& Chambers, Gerald. (1991), pp.195-6.

will present a greater challenge to the republican base of Sinn Fein as they find the current internal political settlement is of little relevance to the economic opportunities for their militant urban base. The American equality model demonstrates what can be achieved alongside the limitations of the practical implementation of legal codes to the labour market. The test for NI is not simply the efficacy and strength of such codes but the degree by which they can be utilised to legitimise the constitution and institutions of the state *and* contribute to the entry by middle class Catholics to such institutions. It may be going too far to give the added responsibility of maintaining the Catholic class alliance under such conditions to such codes also but they do have a role in mediating this process.

Conclusion.

This chapter outlines the administrative response by the British government to the latest outbreak of civil and military conflict in N. Ireland. By describing the issues that led to the internal crisis we have provided the context within which legislative reform was driven and formed. A primary objective was to create confidence and stability in the institutions of NI. It has been argued the response by Britain to a violent political challenge to its hegemony was to maintain an Orange status quo. The implementation of such reforms as initially outlined by Cameron was dilatory - a seven year gap- while other organisational reforms were made such as the introduction of large quangos to provide public services, the critical ground of employment was simply not addressed. The emphasis from 1969 to 1976 was primarily a military solution. In drafting fair employment Bills and Acts due deference was made to the American experience. However as has been shown this experience did not travel well across the Atlantic and both the philosophical underpinning of the American Civil Rights Act and the majority of its powers were not adopted or were specifically rejected. The example of the Race Relations Act illustrates the practices and shortcomings of parallel legislation in another part of Britain. It has been argued however that the situation in NI was much more urgent and vital as the essence of the challenge experienced was about the very nature and existence of the state. By this is meant that the absence of redress could see the demise of the state of NI. The black and ethnic minority groups in the UK could not mount such a challenge even if desired. In NI this desire already existed, as did

the existence of another country that had within its constitution that NI was part of the Irish domain.

This work is about the root cause of sectarianism and its many manifestations in the private and public sphere of employment, investment, planning, housing and politics. It will be demonstrated that legislation has not been and is not "tough enough" nor have the means of enforcement. Fundamental questions as to the critical role these inequalities continue to play in securing and moulding the North in the image laid down by its British and Unionist founding fathers are addressed. Then as now the question to be addressed is that indicated by earlier Secretaries for the Dominion's, namely would the rooting out of sectarian employment patterns mark the demise of 'Ulster' as we know it and thereby eliminate the need for its very existence? Flowing from this is the all embracing question of the stated policy objectives of successive British governments in relation to equality of opportunity and the actual patterns of inequality on the ground as the illusive 'accommodation' with republicans and nationalists through the Good Friday Agreement is sought. An accommodation that remains under threat from unionism and militant republicanism.

CHAPTER IV. EQUALITY IN EMPLOYMENT.

Introduction

Chapters 4, 5 & 6 utilise a range of case studies to demonstrate the existence and depth of discrimination on the shop floor in public and private spheres of employment. At the centre of these examples is the degree to which unionist patronage was so successful that to change this would indeed be to the widespread detriment of Protestants. British legislators have shown that this is a step they cannot contemplate for in their view to do so would be to risk the political integrity of NI, further civil conflict, unrest and an outcome that may be beyond their political managerial capacities. The examples provided reinforce the argument that fundamental reforms that effect the “class” position of one whole group are simply not possible. Together they indicate the strength of the challenge to any reform process and indeed question whether any such process can be successful within NI. They reinforce the historical and contemporary evidence that the mediation of the market in NI must remain essentially partial to sustain its current character and legitimacy to the “greater number”. The analysis begins with public administration then moves on to the private sector.

Public Services: An Anatomy

Direct Rule marked a significant period of expansion and change to the public services especially up to the late 1970's. This represented a major employment and equality opportunity. Many new service areas were created as a result of taking direct service provision away from local authorities e.g. environment, housing, education, social services. It is argued that despite creating and funding this rapid expansion the government failed to actively seek to reverse or significantly change entrenched patterns of inequality. This failure in turn undermined the British governments' declaration that it would achieve positive social reform in the fundamental and keenly fought over area of employment opportunity and anti-discrimination. At the same time the governments' pro-unionist political support for NI as an entity and its war against republicans restricted the breadth of social policy. This in turn meant that the public service failed to offer a leadership

example or promote best practices and thereby could not act as a driving force or example for the private sector, much of which was dependent on government grants. The case studies examined include the Northern Ireland civil service, public utilities (before privatisation), essential services, health, education, emergency services and public sector housing.

The Civil Service.

" The weight and extent of the evidence which was presented to us concerned with social and economic grievances or abuses of political power was such that we are compelled to conclude that they had substantial foundations in fact and were in a very real sense an immediate and operative cause of the demonstrations and consequent disorders after 5th October 1968". ¹

"The Augean stables were nothing to the mess he had found at Stormont. Disproportionate.... salaries ... jobs for the Protestant boys; every power of the Government used to depress the Catholics..."²

These comments demonstrate that from the very outset British ministers were fully aware of the task in front of them and the need for change if the objectives laid out by Cameron were to be achieved. The challenge facing Westminster was either to carry out radical root and branch surgery or to preen around the edges. A choice between maintaining an absolute unionist hegemony or work to achieve a real accommodation with Catholics that Cameron appeared to be suggesting. In a situation where republicans were engaged in a war with Britain the former would not appear to offer the possibility of peace or a political settlement. Yet the British government chose this route for over two decades. By the mid-1980's, the government was obliged to officially recognise little had been achieved.

"Data published today by the Department of Finance and Personnel illustrates a number of marked differences between the characteristics of Protestant and Roman Catholic communities in Northern Ireland, in such areas as educational background, employment and occupation and housing. While such deeply rooted reasons for difference exist it will not be easy to secure early

¹*The Cameron Report*, Ch.12, p.55. Disturbances: Northern Ireland, September 1969, Belfast HMSO.

² William Whitelaw MP, Secretary of State for N.Ireland to Cecil King, 14th April 1972, op.cit. Cecil King Diaries, 1970-74, p.194.

dramatic changes".³

A short ten years later the government proclaimed:

"So far as legislation and Government policies are concerned, most - if not all - sources of inequality between the two main parts of the community have now been removed. Intensive efforts have been and are being made to tackle the residual problems of inequality, and to target the areas of greatest social need, wherever they occur. But there remain substantial social and economic inequalities".⁴

Under Direct Rule then the British viewpoint moved from an "Augean stable" to the remote possibility of "early dramatic changes" some 23 years after the imposition of Direct Rule to the assertion that "the sources of inequality ... have now been removed". Inequalities are now to be seen as primarily "social and economic", i.e. more to do with the nature of the economy, or is the government saying "the source", i.e. itself, in terms of sustaining an unequal framework has been finally removed? While the message is unclear there is now an unequivocal public commitment to the ending of inequalities. This in itself makes debate on the shop floor or recruitment proclamations a legitimate activity. For example:

"Targeting Social Need is a major part of Government's effort to secure this objective and has been adopted as a third public expenditure priority alongside "law and order" and "strengthening the economy". The essential foundation of this initiative is for all Government Departments to monitor more closely the impact of their policies and programmes on the two sections of the community, and to develop action plans to address unfair differentials."⁵

Chapter 2 demonstrated the overtly Protestant bias and effects of the Stormont regime. This did not engender Catholic support. Loyalty to the Union and Orange institutions were considered paramount and often proclaimed in public from the prime minister down. The intensity of these declarations reflected the instability and general sense of insecurity of the new state. What then could or did the government do to eradicate strategic and operational prejudice in its own arm of

³ Douglas Hurd MP, Secretary of State for N.Ireland, NIO, 3rd July, 1985.

⁴ NIO, 9th & 15th December 1994; Exploratory Dialogue with Sinn Fein; the Progressive Unionist Party and the Ulster Democratic Party.

⁵ Peter Brooke MP, Secretary of State, 10th March, 1992, NIO.

administration or address what it now chose to term unfair differentials?

An analysis of the civil service management group from 1927 to 1959, which included the "take-off" post of Staff Officer (372 posts) demonstrated the strength of Protestant hegemony. Out of a total of 740 posts, 46 (6%) were occupied by Catholics. They remained concentrated at the lower levels, e.g. 17 out of 216 Deputy and Assistant Principals; 23 out of 372 Staff Officers; 4 out of 107 Principal Officers; 2 out of 38 Second and Assistant Secretaries and none of the 7 Permanent Secretaries. Protestant domination ranged from 92% to 100% in each category.⁶ The authors, leading Quakers, represented one of the first "respectable" profiles of inequality, first published in 1962 and re-issued in 1972 under the momentum of the "troubles". It could therefore not be easily dismissed as republican propaganda. Their analysis clearly showed the success of the Protestant project in securing an administration in its own image.

In July 1973 an article in *New Society* by Professor David Donnison, Director of the Centre for Environmental Studies claimed Protestants occupied 95% of all senior posts from the grade of assistant principal upwards.⁷ The civil service challenged this publicly and claimed the true figure was 15% for Catholics. However an examination of the figures used show this was arrived at by including the larger category of Staff Officer where 20 Catholics held posts. The end result was a figure of 12% with Protestant domination ranging from 86% to 95% within the senior categories.⁸ By this time Direct Rule had been imposed with a commitment to eradicate discrimination. The civil service rapidly expanded. From a staff of 8,000 it grew to 23,000 between 1972-77. This dramatic expansion provided the most significant single opportunity to fundamentally alter the sectarian class relations of the past within the civil service. The possibility of achieving Cameron's twin goals of reducing tension and encouraging loyalty to the constitution presented itself. Successive Labour and Conservative administrations however shied away from disturbing Protestant hegemony.

⁶ Barritt, D.P. and Carter, C.F., *The Northern Ireland Problem*, p.96. OUP, London, 1972.

⁷ Donnison David, *The Northern Ireland Civil Service*, *New Society*, 5th July 1973. See also "Northern Ireland a New Society social studies reader", 1973.

⁸ Unpublished correspondence from NI Civil Service Permanent Secretary, Mr. K. Shimeld and authors analysis of data in the NICS press release of 6th July 1973.

In December 1983 an assessment of the composition of the service was published by the FEA. This represented the outcome of a formal investigation that began in 1980. Although the analysis was completed by July 1981 and fully reported to the FEA Board in November 1981, two years would elapse before the government permitted the FEA to publish the results. Those directly involved in the investigation considered the end product was largely manufactured and dictated by the civil service itself.⁹ They considered the report published by the NICS did not accurately reflect the research findings or conclusions and specifically breached undertakings to include as an appendices Miller's critical methodological analysis of the NICS reinterpretation of the data. The data referred to below are taken from the original, unpublished analysis agreed by the consultants and FEA research officer.

From the very first meeting of the investigation steering group, the FEA, Northern Ireland Public Service Alliance (NIPSA) trades union and the civil service agreed to exclude security linked personnel, e.g. prison officers, security guards, civilian search personnel, the RUC and UDR, etc. At the time the complete service employed 31,000 but the investigation was restricted to the 22,864 non-industrial administrative, professional and technical workforce.¹⁰

Religious identity could not be established for 3,211 because they were either not born in NI, data was unavailable or they were local government transferees. The religious composition of the remaining 19,653 was 69.5% Protestant (P) and 30.5% Catholic (RC). The NI Catholic population was just over 39% at the time.¹¹

⁹ The consultants were Michael Pearn, former Director of Runnymede Trust, then Director of an independent Equality Consultancy; Robert Miller from Queens University Belfast, and the author as secretary to the working group and researcher to the FEA.

¹⁰ Another example of reconciling the transition from an all Ireland state to Stormont was recruitment to the Prison Service. Under the 1920 Act, the composition of the service was, 36.7% (62) Catholic, and 63.3% (107) Protestant. Out of the 90 appointments made between 1922-24, 12% (11) were Catholic. By the end of 1924, from a total staff of 195, 20% (39) were Catholic. This was a fall in overall terms of 62%. The number of female Catholics remained stable at ten while males fell from 52 to 29. (By 1990 the growth in security related occupations employed 20,848 in the UDR, RUC, Prison Service, Territorial Army, Royal Navy Reserve, with 3177 alone in the Police Authority. Of these 1457 6.9% were Catholic. Monitoring Returns, Fair Employment Commission, Research Report No.1, 2, 1991, 1992).

¹¹ See Eversley, D. Univ. of Cambridge & Herr, V., Univ. of Berkeley, *The Roman Catholic Population of NI in 1981, A Revised Estimate*, (1985) FEA, Belfast.

When the overall figures were broken down into 25 equivalent and comparable occupational groups, significant differentials emerged. The original analysis presented by Miller to the FEA concluded religion had a *"distinct and unique effect upon the salary level an individual holds, the occupational group in which he works, and the department in which he is found"*. Protestants remained dominant in the higher and better paid occupations. They enjoyed higher than average salaries in 17 out of 24 groups (the Miscellaneous category were excluded), while Catholics tended to be concentrated in the lower paid and menial occupations. The averages for the seven groups (Ancillary, Clerk and Superintendent of Works, Data Processing, Ordnance Survey, PSV Examiners, Legal and Medical staff) where Catholics had higher pay scales than their brethren elsewhere were inflated by the inclusion of medical and legal staff. However the majority were in the lower paid Ancillary and Data Processing Groups. Together they constituted 7.7% of the whole investigation. Within the five non-menial groups in this section, there were proportionately more Protestants than was typical for the service as a whole, e.g. Legal, Medical and Works Superintendents groups.

In three groups, General Service, Typing and Data Processing, there were proportionately more Catholics. Again they occupied the lower paid categories. Tables 1 and 2 below provide a religious composition comparison by salaries and department by collapsing the various occupations into a range of comparable grade bands that were agreed as valid by the FEA, civil service and NIPSA.

Table 1. SALARY GRADES BY RELIGION. July 1981		
	Protestant (%)	Roman Catholic (%)
Senior Principal or higher	87.3	12.7
Principal and Deputy Principal	83.2	16.8
Staff Officer	82.7	17.3
Executive Officer 1	76.4	23.6
Executive Officer 2	71.7	28.3
Executive Officer 2	71.7	28.3
Clerk	63.8	36.2

Clerical Assistant	63.6	36.4
(Survey Number 19,604)		

Miller R. Analysis Results – Incorporating Occupational Groups and Pay Levels, Draft Reports 1 and 2, Civil Service Investigation, to FEA, July 1981, November 1981.

The majority of Catholics were located in the bottom four grades. These grades constituted 82.5% of the whole service. The administration under Direct Rule then had left power and influence in traditional hands. With the exception of education, Protestants were on higher pay scales in all departments. This was especially notable in the four key areas of administration, Commerce, Environment, Finance and Agriculture. In three departments, Health and Social Services (43%), Manpower Services (39.5%), and Commerce had proportionately more Catholics than the average of 30%. The following table illustrates inequalities at the departmental level.

Table 2. DEPARTMENT BY RELIGION. (July 1981)

	Protestant (%)	Catholic (%)	Numbers.
Agriculture	72.0	28.0	3,259
Court Service	79.2	20.8	178
Commerce	66.1	33.9	734
Civil Service	77.1	22.9	773
Education	83.3	16.7	652
Environment	73.9	26.1	4,385
Exchequer & Audit	84.8	15.2	67
Finance	72.8	27.2	2,806
Health & Social Services	57.0	43.0	5,589
Manpower Services	60.5	39.5	2,005
Northern Ireland Office	79.1	20.9	1,010
Police Authority	89.0	11.0	1,748

FEA. Civil Service Investigation, July 1981, November 1981.

These findings were withheld from publication by the civil service for two years and only made public in a form dictated by it. This became significant during the Irish American MacBride Principles Campaign to challenge discrimination in NI.¹² On the 4th December 1984, fifteen years after the Cameron Report, the civil service issued an equal opportunities statement to its staff for the first time.

The British governments' Downing Street declaration in August 1969 that "irrespective of political views or religion" equality of treatment and freedom from discrimination would be secured via the creation of an impartial tier of administration between government and people had not been secured. The status quo remained essentially in place precisely due to the absence of any radical challenge to change the nature of the local labour market. This highly significant failure was conveniently illustrated by the situation in the then Department of Civil Service. It was responsible for personnel and recruitment practices for the whole civil service. In the top four grades, Assistant Secretary to Permanent Secretary, all 12 post-holders were Protestant. At the next tier, one out of 19 Principal Officers was Catholic. At the next two senior levels, Deputy Principal (29 posts) and Staff Officer (48 posts), there were 5 and 8 Catholics respectively.¹³ The Head of the DOCS at the first meeting between the FEA, the civil service and NIPSA to discuss the enquiry fiercely opposed any notion of monitoring by religion or the introduction of formal equality opportunity programmes. He remained consistent throughout the investigation.¹⁴

An interesting feature discovered upon assessing the data was the position of women. Inequality of opportunity in terms of gender was apparent with Catholic women suffering an additional burden. Although females accounted for 50.3% of the workforce, 87% of them were concentrated in 4 groups; General Services,

¹² See Graham, D. *Critique* 16, A Journal of Socialist Theory, 'Northern Ireland: A State Beyond Reform', 1983; *Critical Social Policy*, Issue 9 Spring 1984, 'Discrimination in Northern Ireland: the failure of the Fair Employment Agency'; *New Society*, 22/29 December 1983, 'Religious Bias in civil service; Suppressed Report sparks Ulster row', *New Society*, 26th June 1987 and Pollak, Andy. *Fortnight*, Issue No.188, October 1982, Belfast, 'The Civil Service Investigation: The FEA's Last Chance?', and Miller, R. 'Evaluation Research in a Politicised Context: An investigation of the Northern Irish Civil Service by the Fair Employment Agency', 1987, Queens University Belfast.

¹³ FEA. Unpublished Data from Civil Service Investigation, 1981.

¹⁴ Authors' observation and meeting records. A contemporaneous and full record was made for each meeting by the research officer who then produced a shorter minute for agreement.

Typing, Data Processing and Drawing Office Staff. Although the average pay scale was higher for Protestants, the predominant source of inequality for women was their sex. Again key departments such as Commerce, Environment, Exchequer and Audit and the appropriately named Manpower Services contained fewer than the average for other departments.

The Minister Adam Butler MP, declared, the evidence, "shows that the Northern Ireland Civil Service practices fair recruitment and promotion procedures".¹⁵ In March 1984 the Secretary of State, James Prior MP announced a programme of cut-backs that reduced the service by over 700 by 1988. The period of growth apart from some transfer of jobs under the Government's Next Steps Agency programme during 1990-92 had ended and with it the opportunity to achieve significant change through growth alone. While the transfer of several administrative functions such as the processing of DSS claims for areas of London to Belfast created around 940 office jobs, other bodies operating under the aegis of the NIO lost 856 jobs while public corporations lost another 828 in the same period.¹⁶

In January 1985, Ministers claimed in parliament, that the overall composition of the civil service was 58.4% Protestant (30.2% Male, 28.2% Female) and 32.7% Catholic (14.7% Male, 18% Female). This included 1,600 ancillary and related grades. Security related personnel were excluded. In 1987 the NIO produced a booklet *"Fair Treatment For All"*, primarily for distribution to the American political market. In this they stated the composition in 1985 was 63.6% Protestant and 36.4% Catholic. Monitoring returns to the FEC for the whole civil service including the prison Service indicated 32.8% (11,763) of 35,853 were Catholic in 1990. Of these 47% occupied clerical and secretarial jobs, 17% were managers and administrative officers and 2.8% were engaged in security related occupations. By 1994 the numbers of Catholics employed fell by 0.6% giving an overall ratio of 33% Catholics in the 40,049 workforce. If the figures for security related occupations including the Police Authority for NI and prison service are added in then the figures vary significantly. The latter account for 21,358 employees of

¹⁵ NIO, 26th January, 1984.

¹⁶ NIEC Report 93, April 1992.

whom 92% are Protestant. This would give an overall total in the civil service of 75% Protestants.¹⁷

Shortly after the edited version of the civil service report was published in December 1983 and as Ministers defended their record, the public service trade union, NIPSA, charged it with adopting recruitment practices which, "smacked of maladministration and should be stopped". NIPSA further added, it was only "with considerable reluctance", the service suspended these practices.¹⁸ Clearly if the potential remained for acts which may be discretionary or plainly iniquitous in mainstream recruitment practices the possibility of sustaining patterns of religious inequality is strong. As David Donnison stated much earlier in his *New Society* article Catholics are unlikely to trust a regime where their potential to serve is highly restricted by the very forces that claim to wish to offer them equality in the first place. He noted this pattern is self-sustaining, particularly in a society where historical relations are all pervasive.¹⁹

It may be argued then that Direct Rule largely reproduced or at least reinforced earlier 'Orange' paradigms in the civil service. One may also postulate that if some form of political settlement is to be achieved internally the Catholic middle class will desire greater entry at all levels to this market place.

Health and Education.

Queen's University medical faculty is the first critical step for aspiring student doctors in NI. Its 30 chairs represent almost one third of professorships of which 77% were held by local Protestants. The rest were occupied by British academics. Since the 1970's, Catholic students have increased to almost 45% of the student body. In Medicine however the pattern had remained largely unchanged since 1953 when Catholics peaked at 103 (18%) out of 564 medical students. In 1969 when the civil rights movement was at its height, there were 31 Catholics out of 387 consultants or specialists. The management committees of the 97 hospitals

¹⁷ FEC, 1991,1992, 1995 *Monitoring Returns*, analysis by author.

¹⁸ *NIPSA Annual Reports*, 1985, 1986.

¹⁹ Donnison, D. *New Society*, 5th July 1973.

contained 72 Catholics among 456 members. All eight of the full time medical referees were Protestant as were 44 of the 50 part- time referees. No Catholics were employed as Chief County or Borough Medical Officers, Dental Officers, or Public Health Inspectors. Of the 16 public health inspectors, 3 were Catholic.²⁰

By 1987 of the 2991 employed by Queens, 19% were Catholics which when broken down into medicine indicated there were 72 Catholics out of 448 employees who serviced a student medical body which was almost 42% Catholic.²¹ Again an opportunity to intervene by increasing the number of Catholic staff especially when the demographic base of the student body was radically changing and new hospitals were being built was not taken.

Under Direct Rule the government delegated responsibility for vital services such as the provision of health and education to new health and social services education and library boards. By 1990 there were more than 98 public sector bodies or Quango's delivering services in NI. As such they were directly accountable to local ministers for the manner by which these powers were exercised and services provided. Their general perception as overtly unionist stemmed from the various public positions they adopted in relation to a range of matters they considered undermined unionist hegemony. For example Education and Library Boards openly refused to sign the FEA's original equal opportunity declaration in 1976 and declared they would not accept tenders from firms that signed it. Unionist Assembly members who also served on these boards claimed their opposition was based on moral grounds and to prevent "inhibiting the freedom of the people".²² Investigations into their employment practices by the FEA found this ethos reflected in employment practices.

For example in 1978 a short list of 18 for ambulance drivers/attendants in the Northern Health and Social Services Board was composed of 15 Protestants and three Catholics. Every Protestant who applied was shortlisted but only three of the 13 Catholics. A Protestant was appointed. In 1978 at the Masserene hospital in

²⁰ *Plain Truth*, Campaign for Social Justice, 15th June 1969, *Iris* No.9, Dublin 1984.

²¹ Annual Reports, Catholic Chaplaincy, (unpublished); QUB, FEA Section 12 Investigation, 1988.

²² The local press carried constant statements and pictures of unionist politicians tearing up the Fair

County Antrim, the 18 driver attendants included one Catholic. The same pattern existed among the drivers for the Maghera and Cookstown hospital with one Catholic out of 16 in 1978. Thirty out of a work force of 200 at Banbridge hospital which is managed by the Southern Board were Catholic in March 1979. An advertisement for domestic workers in August 1979 for the Waveney/Braid hospitals in Ballymena saw one Catholic on a short list of 22. During this period several investigations were carried out by the FEA but no findings of discrimination were made. The Southern Education Board voted in July 1983 to reject equal opportunity clauses in contracts. During the same month the Western Health and Social Services Board was found to have discriminated against a Catholic man employed as a temporary driver. This reflected the traditional hold of Protestant management serving its unionist board.²³

Matters became further complicated when Sinn Fein, following the 1981 Hunger Strike, decided to embark on an interventionist strategy. As SF members became councillors, unionist controlled councils sought to prevent their nominations to such Boards. In Belfast for example, non-unionist representation was prevented by the simple expedient of only putting forward for approval to Ministers unionist members. Chris Patten MP the Minister then responsible and former Governor of Hong Kong accepted this controversial approach which later led to successful legal action by Sinn Fein to stop such discrimination.

Another example of political intervention being able to make a difference, when desired, came from the FEA in response to direct pressure from the late unionist Harold McCusker MP, on the FEA Chair, Cooper. The FEA started a formal investigation in 1983 into the Southern Health Board that McCusker considered to be Catholic dominated. FEA findings were leaked in 1986. They indicated that although Catholics constituted 54% of the population in the area they made up 47% of the workforce. Protestants were found to dominate the higher grades. For example Catholics accounted for 58% of the trained nurses while Protestants accounted for 66% of the 756 clerical and senior administrative grades. Three of

Employment Act, calling for the FEA's demise and refusals to co-operate.

²³ Graham, D. 'No room in the ambulance', *New Society*, 14th February 1984; *Irish News*, 18th January 1985. Fair Employment Agency, Report of an Investigation into the Ambulance Services of

the 31 senior administrative staff were Catholic. This pattern was reflected at the district level. In Armagh and Dungannon no Catholics occupied senior posts; in Craigavon of the 16 senior posts, five were Catholic and in overall terms, Protestants occupied 56 (75%) of the 75 senior district posts. Eleven of the 38 front line managers were Catholic with most of these employed in the Catholic Newry and Mourne District.²⁴ What this illustrates is not simply the difficulty of addressing inequalities but two other significant points. The first that Direct Rule had essentially only marked time and secondly that *political will* could make a difference. In this case a formal investigation. On a much larger scale it could if exercised in a positive manner have imposed structural change. The period these examples encapsulate are twenty years of British direct rule, accountability and responsibility. Structural inequalities were apparent yet the solutions proffered focused on the individual and not redress on a “class” basis. The responsibility for change and indeed the failure to achieve it is thereby reduced to the efficacy of the law for the individual and not the wider Protestant/Catholic power relationships.

This is again illustrated by patterns of power within employment in the Western Health Board. Employing approximately 6,200 and covering the largely Catholic West including Derry, Omagh and Fermanagh the religious composition of the workforce monitored was 2457 (39.7%) Protestant and 3205 (51.7%) Catholic.²⁵ The DED's *Guide to Effective Practice* estimated the working population for the area to be 40.8% Protestant (59,030) and 59.2% (85,784) Catholic. While this may suggest a general under-representation for Catholics, Protestant staff at Board Headquarters exceeded their average with 49.2% (63). At the area management level Protestant representation ranged from 34.2% (543) in Omagh to 47.3% (462) in Fermanagh. Around 534 were not assigned a religious category. When aggregated into senior and middle management categories, out of the 668 total, 315 (47%) were Catholic. Of these 25 were senior managers out of a potential 65 while 290 were middle managers out of a total 603. The highest percentage of Catholics were found in nursing (58.4%, 1436) and social service (56%, 366) occupations.

the Health & Social Services Boards in Northern Ireland, November 1985.

²⁴ FEA unpublished report; *Irish News* 21 March 1986. In 1992 FEC monitoring returns indicated the Southern Board's workforce of 7029 included 3450 (49%) Catholics.

²⁵ The FEA excluded ambulance staff, home helps, and medical staff which also involved Queen's University staff who were involved in making certain medical appointments.

Catholic tradesmen by comparison accounted for 27% (50) of the 185 total employed.²⁶ This reflected the difference between domination in traditional occupations as compared with the new brought about by the general expansion in medical and social care. As the economy becomes progressively more service orientated public funded employment will remain a vital resource for employment in rural areas where significant industrial clusters are absent.

One of the more openly sectarian employers has been the North-Eastern Education and Library Board. It services the needs of a largely Protestant population with a Catholic working population of approximately 23% (49,209). It adopted a high profile opposition to equal opportunities and only agreed to sign an equal opportunity declaration late in 1988 under duress of pending legislation. An investigation by the FEA actually found the Board failed to afford equal opportunity and criticised its public stance on the issue. Employing 5,309, the overall composition was 69.5% (3690) and 22.4% (1192) Catholic. The latter were concentrated in staff providing school meals, caretaking and cleaning. The headquarters staff for example was 78.2% Protestant and 62 (16.5%) Catholic. In the senior and administration and professional grades Protestants accounted for 79.4% (81) as compared to 20.5% (21) Catholics. A religious classification was not made in 6 cases. Of the non-school based staff e.g. tradesmen, libraries, technical college teachers etc. Catholics composed 15.7% of the 1,370 employed. In tradesmen type activities for example there were 13 Catholics out of 151 jobs; and again among the 270 library staff they accounted for 17%. Only 5 of the 75 most senior posts in technical colleges were held by Catholics. The latter's representation was higher among the 3,900 school based staff e.g. cleaning, caretaking, meals which in large part is a reflection of the highly segregated education system with each school being largely serviced by its 'own' people.²⁷

Ambulance services are controlled by the Health Boards. Again employment in this vital and sensitive area was the subject of public controversy with demands

²⁶ DED *Guide to Effective Practice*, September 1987; *FEA Investigation* into the Western Health and Social Services Board, October 1988, pp.11-24.

²⁷ *FEA Investigation* Report into the North Eastern Education and Library Board 1986 (published 1988) The FEC 1995 monitoring return indicated how little progress has been made. Its 3667 workforce included 870 Catholics.

made for formal investigations as soon as the 1976 Act came into effect. The FEA did conduct an enquiry beginning in 1982 and formally ending in November 1985, following the leaking of findings in January 1985. Although staff were directly employed by all the Health Boards they were recruited by a central Staffs' Council. 133 out of 599 were Catholic. In all Board areas including the Catholic West where Catholics held 32 (16%) of posts, Protestants dominated. At the more senior grades, 10 of the 71 leading ambulance men and 2 of the 45 Ambulance officers were Catholic.

Within Belfast, which falls under the Eastern Board, the majority of all Catholics (34) were concentrated in the Central Ambulance depot at Broadway on the Falls road where they represented 40% of the staff. Prior to October 1973 when the Boards were created under Direct Rule, there were 36 (16%) out of 219 ambulance staff Catholic. By the end of 1985 they represented 23.8% of the 559 workforce. Although the FEA concluded, "there are no satisfactory reasons for the low numbers of Roman Catholics in the Ambulance Services to be found", no findings of discrimination were made.²⁸ In April 1987 the NIO asserted progress had been made.

Catholics in 1994 accounted for 18,683 (41.7%) employees in the four Area Health Service Boards workforce of 44,737. Many, 8090, were employed as nurses while others worked in menial tasks such as porters and kitchen staff (3446). Of the 950 employed as managers or administrators 274 (28.8%) were Catholic. In March 1992, the Fair Employment tribunal reported on its finding that a Catholic applicant had been subjected to "fear, humiliation, frustration, insult, stress and deep hurt arising out of a blatant act of unlawful discrimination", by a health authority which was ordered to pay £25,000 compensation. In the five Education and Library Boards, there were 6,778 (40.5%) Catholics employed in the total 16,696 workforce by 1994. Catholics accounted for 99 (28.6%) of the 345 employed as managers and administrators; 1,043 (35.5%) of the 2,935 employed in professional occupations; 72 (21%) of the 339 working in skilled manual jobs and 1,226 of the 3,179 engaged in clerical and secretarial work.²⁹

²⁸ *FEA Investigation Report into the Ambulance Services*, November 1985

²⁹ Fair Employment Commission, *Monitoring Reports*, 1992, No.5, 1995.

The argument advanced that the British administration largely adopted a passive and non-interventionist equal opportunity policy in public services including those which by their very nature - province wide services - should have offered wider opportunities is strongly supported by such examples. A situation where equality policies are accepted with reluctance or actively opposed by agents of the government cannot but engender stronger feelings of alienation by the Catholic populace towards the British administration. The absence of leadership or structural intervention by government confounded the potential for long term solutions in the interest of short-term expediency to appease unionists.³⁰

The Fire Authority.

Another public area fraught with a history of exclusion and sectarianism is the fire brigade service. Again a universal service where there was an expectation reforms would be applied. A relatively small area of employment it expanded under Direct Rule and in response to increased demand caused by the "troubles". Work by the FEA in this field began on 3rd December 1981 following an intense internal campaign by staff to secure an enquiry in opposition to the FEA Board. This example offers a useful insight as to the internal employment culture and absence of demand by government to achieve change.

An enquiry followed an individual's complaint that had revealed that between 1977-80, Catholics had less than half the chance of being appointed than

³⁰ It is interesting to note in this context that British Ministers put forward quota systems for top jobs in the National Health Service. This was a direct response to sustained evidence that many ethnic minority patients were exposed to poor health care derived from their absence in the Health Service's senior management posts. The NHS Executive introduced quotas for women at the top. (*Guardian*, 30th January, 1992) In the highly sensitive area of policing the outcry over the 1999 Lawrence enquiry obliged the Chief Constable for the Metropolitan police, Sir Paul Condon, to publicly apologise for the endemic racism in his force and their operational practices and directly led to the Home Office setting specific quotas for the police force. Over a ten year period each force was instructed by Home Secretary, Jack Straw, to recruit more than 8000 Asian and black officers. In London for example the Met employs 865 ethnic minority officers,- its target over 10 years is to recruit 5,662 officers. In rural areas such as Devon, Cornwall, Dyfed Powys, a 1 per cent base line for ethnic recruitment was set. Straw declared that he wanted 'the police service to become the champions of a multicultural society not just because that is right in itself, but also because it will make it a more effective police service'. He added that without 'the kickstart the targets provide I can see little prospect of the police service attaining a proper ethnic balance at any stage over the next quarter of a century'. (Home Office, Chief Constables Conference, 14th April 1999) The *Patten Report* on policing in NI has raised similar demands that unionists challenge could change the ethos and culture of the RUC if implemented (September 1999).

Protestants. Over this period, 48 from 884 Catholic applicants were appointed as compared to 211 from 1,431 Protestant applicants. The composition of full time officers, was 556 (82.2%) Protestant, 106 (15.7%) Catholic and 14 English or others. One of the senior eight officers was Catholic. When faced with the impending broader enquiry the Chair of the Fire Authority, Ms. McMahon had a private meeting with the FEA's chairman Mr. Cooper in the summer of 1981. The Fire Authority wished to include part time retained firemen in the analysis. Their view was that as they would be locally based there would be more Catholics present. Cooper's 'off the record' minute notes that the Chief Fire Officer, Mr. Morrison, "made a long and detailed plea to leave well alone". Ms. McMahon also made "a plea that the Agency should use its discretionary powers and not proceed".³¹ This however was a period of intense political turmoil following the 1981 Hunger Strike when the Agency was under pressure from the NIO to show results at home in America. An analysis was completed in 1982 but only published in July 1984 following sustained pressure from nationalists who had obtained copies of the report.³² Cooper denied the Fire Authority had asked him to drop the investigation, adding "There was no question of us being pressured to abandon it".³³

The investigation confirmed, "Catholic representation among full time firemen is substantially below the proportion to be expected". Those recruited since 1974 had failed to enter the higher ranks "to any appreciable extent". Recruitment between 1981-83 demonstrated a Protestant success rate four times that of Catholics. From May 1981 to April 1982, 89 men were recruited as retained firemen. Seventeen were Catholic. In 23 out of 31 recruiting stations, no Catholics were appointed. In one station, Catholics only were appointed. Protestant interviewers had simply selected *out* of the process the majority of Catholics. In 1974, 19% of appointments were Catholic. In 1983, the figure had fallen to 12%.

In the case of the original complaint the FEA failed to find against the Authority which in terms of the investigation noted, "it (the FEA) did not raise any charge of

³¹ *Notes of Meeting* with members of the Fire Authority for NI with Mr. Cooper and Mr. Sefton, FEA, 1981.

³² Danny Morrison, Sinn Fein, *Irish News*, 14th March 1984.

discrimination against the authority ...".³⁴ The very next day, the Minister Chris Patten announced a £6m development scheme for the Fire Authority's Lisburn Headquarters. He had himself photographed at the wheel of a fire tender. He praised their "standing and prestige within the British Fire Services as something we can be proud of". A public stamp of approval during a public controversy over sectarian employment practices was a message that nationalists were likely to interpret as government agreeing with the Fire Authority that: "well should indeed be left well alone". A postscript to all this was the attitude of the eight unionist councillors on the Fire Authority who sought to remove emergency cover from border areas and prevent cross-border co-operation in fire fighting as part of the protests against the 1985 Anglo-Irish Agreement.³⁵

The NI Electricity Service

As with other public bodies the Northern Ireland Electricity Service (NIES) was a child of Direct Rule combining the original four sources of supply into one. The control of power was critical to the success of the loyalist para-military strike in 1974. Paramilitary groupings and recruitment were carried out quite openly with loyalist emblems adorning the workplace. John Turnly, of the Irish Independence party, who was assassinated by loyalists had earlier described the situation at Ballylumford power station as "no more than a virtual Orange Lodge, controlled by UDA mobsters".³⁶ When 18 jobs were advertised at Ballylumford, all jobs went to Protestants. When the Kilroot power station, outside Larne, came into service in 1980, recruitment policies stayed deep within Protestant furrows. The NIES employed over 5,700 and received public subsidies ranging from £45m to £105m depending on fuel costs. As another wholly owned public enterprise government was again placed to exercise considerable influence. The later strategy of privatisation provided further critical leverage to achieve dramatic turnarounds in employment as part of the contractual process. There is no evidence that government placed equality of opportunity as central to this process thereby

³³ *Irish News*, 14th March 1984.

³⁴ Fair Employment Agency, *Investigation Report* into the Fire Authority for Northern Ireland, June 1984; *Belfast Telegraph* 2nd and 3rd July 1984.

³⁵ *Irish News* 24th June 1986.

³⁶ *Irish News* 29th April 1979.

casting aside a critical symbolic and practical opportunity. It also thereby left a loyalist power base intact.

The 1971 Population Census, indicated that of the 5068 men employed, in this field, 725 were Catholic with 311 of those enumerated not recording any religion. Of the 617 females employed, 82 were Catholic, 45 did not specify a religion.³⁷ With a high public profile as a loyalist stronghold complaints were numerous. Indeed some of the FEA's first investigations started in 1977-78 were into the NIES. The FEA had decided to conduct a formal Section 12 investigation into the NIES on the 3rd and 10th October 1978.³⁸ Although "significant matters had been brought to light", by six individual complaints between May 1977 and August 1979 the complaints sub-committee, which included a UDA representative, failed to find any findings that discrimination had occurred. The NIES were allowed to retain their equal opportunity certificate and no findings of discrimination against the NIES made. The security reception area at NIES headquarters in South Belfast through which every visitor, worker and potential recruit had to pass, displayed large paramilitary and Ulster Vanguard flags. Management declined to instruct their employees to remove these. The FEA established "there were only two Catholics out of 64 members on management grades". This led to clarification by the NIES Assistant Secretary, "that if one was going to quote figures, the current figure was 2 out of 63".³⁹ Of the top 241 management grade employees 7 were Catholic in 1979. All the six directors and ten top managers were Protestant. Peter O'Keefe, Deputy Co-Ordinator for the FEA described this as part of a "considerable failure to respond to our statutory obligations".⁴⁰ Following an intense internal row Cooper wrote to the NIES chairman on the 19th November informing him a formal investigation would commence.

When a draft report was issued to the NIES by the FEA on 1st May 1981, the NIES personnel director responded on the 22nd May 1981, stating, "the Service is concerned and aggrieved with the overall impression given by the report. Some of the assumptions made and conclusions drawn cannot be justified on the basis of the

³⁷ Religion Tables, Census of Population 1971, NI, 1975, HMSO: Belfast.

³⁸ Research Sub Committee and FEA Board *Minutes*.

³⁹ FEA *Minutes* 12th September, 1978. This is examined further in Chapter 7.

factual information provided". He added that to monitor religion would be a "retrograde step", and declared, "The Service is not aware that an atmosphere exists at any of its establishments which is anything other than conducive to a harmonious workplace". Cooper at a meeting with the Deputy chairman of the NIES, Mr. Gaston and Mr. Nickell, secretary for the NIES, accepted that much of this imbalance (7 of the 250 top staff being Catholic) managers could have arisen from past practices.⁴¹

Between December 1983-1988 the NIES cut 400-500 jobs to achieve savings of £3.75m a year. From 1981 to 1989 the NIES benefited from over £350m in direct subsidies. In July 1988, Ministers announced the decision to privatise the NIES by 1992. Phase II of the Kilroot power station was completed in preparation for this. The objective was to power it by lignite from the shores of Lough Neagh. This threatened one of Ireland's oldest fishing communities. They happened to be Catholic. After the signing of the Anglo-Irish Accord, the power workers made it clear Catholics were not welcome. On the 11th February 1986, on BBC's Panorama programme, the Ballylumford manager declared, he and his fellow workers would switch off the lights on the Agreement.

NIES management responded to nationalist criticism by stating "there is no basis for disciplinary action to be taken, it was a personal view expressed outside working hours".⁴² A banner proclaiming "Ballylumford Says No", was hung on the station and solid support given by workers to the Loyalist Day of Action on 3rd March 1986. They also refused to work with a Catholic engineer who arrived from Dublin to learn how power was generated in the North. Perhaps it was obvious. The NIES proclaimed it was an equal opportunity employer. The NIO continued to assert progress was being made.

On the 4th March 1992, the government announced that the board of NIE plc would act as the transmission, distribution and supply company on full privatisation of the four power stations. Its members were largely drawn from

⁴⁰ O'Keefe, P. to Cooper, R. Chairman FEA, 12th October 1979, *Correspondence*.

⁴¹ NIES to FEA, 22nd May 1981; *Minutes* of 11th November 1981 meeting.

⁴² NIES, press statement 12th February 1986.

existing non-executive directors and senior executives of the NIES. Its chair remained Sir Desmond Lorimer. On 5th March 1992, the Secretary of State informed parliament of the full privatisation programme. Ballylumford power station was sold to British Gas for £132.4m helped by an 90 million ecu grant from the EEC; Belfast West and Kilroot power stations were sold for £214m to an American and Belgian consortium, Applied Energy Services/Tractebel. AES is based in Arlington, Virginia and has a stock market valuation of \$1.25bn. The smallest and oldest station at Coolkeeragh went to a management/employee buyout for £6.5m. The sale was completed in June 1992.⁴³ During the same year the Fair Employment Tribunal finally ruled on a case dating back to 1990, that the NIE had discriminated against a Catholic applicant on "the most subjective basis possible", for the post of way-leave officer in Omagh, Co.Tyrone. The minister declared, "I am very conscious of the service which NIE's employees have given to the community over the years. They have served Northern Ireland well".⁴⁴

In September 1994, NIE threatened to sack its 400 shop workers in its 33 outlets unless they accepted pay cuts of 6.1%. Some would suffer real cuts of around 14%. It also aimed to reduce its power workers to 2,407 from 2607 by the end of 1994. Results for the first six months of the 1994 financial year showed a pre-tax profit of 16.5% to £48.6m. Privatisation had the effect of reducing general employment opportunities and impacting mostly on the unskilled and low paid. While this has been a common outcome in all public privatisations it had the added factor in NI of reinforcing religious inequalities.⁴⁵

Conclusions.

⁴³ Northern Ireland Office press release, 4th March 1992.

⁴⁴ NIO 5th March 1992.

⁴⁵ The NIE later became a subsidiary part of the international Viridian Group PLC and as such may be exposed to scrutiny by a wider interest base including English local authorities that utilise Viridian's software products. At May 1999, the workforce was 71% Protestant and 29% Catholic. Its literature notes the joint declaration of Equality of Opportunity in Employment made between management and the local trade unions in 1988 was its foundation for equal opportunities policies and practices. This was updated and signed by the English based trade unions during May 1998-99. Viridian also established a harassment hot line in 1994 to deal with problems relating to sectarian harassment and ended the flying of union flags at its establishments late in 1999. *Equal Opportunities in Viridian Group PLC, 2000.*

In the range of services examined the British government exercised direct and indirect control as paymaster, legislator, policy maker and promoter of change. Both the economic muscle and fresh opportunities were there due to growth in public sector employment as a direct result of its own policies. The political will to confront the entrenched forces of inequality however was not. Indeed the language of equality of opportunity by government ministers only become prevalent in the very late 1980's. The responsibility for providing leadership, ensuring accountability and protecting the public purse in terms of employment promotion and affording of equality of opportunity were not realised. The major ethos characterising Direct Rule in this regard was one of passive acquiescence with attention apparently focused on military solutions rather than the underlying problems recorded by Cameron 27 years earlier. The net results were employment patterns and inequalities that remained fundamentally unchanged. The impact of further education has undoubtedly left middle class Catholics and successful working class Protestants and Catholics much better equipped to compete and enter a larger white collar public sector market. Entrance to this market however is evidently a marginal and painful process. This in turn has exacerbated underlying political problems whereby the perception of a commitment to change is often as important as any real change. It has also strengthened those resistant to change in the labour market and further afield. The failure to address fundamental matters of inequality in such vital and essential services as outlined above supports the argument that the British government did not seek to alter existing religious class relations.

Chapter 5. Public Sector Housing.

Introduction.

The provision and allocation of public sector housing was at the centre of civil rights protests. Charges of discrimination, choosing locations to maintain Protestant gerrymandered political boundaries, declining to build in others to keep Catholics out were the daily bread of politics under Stormont. The Cameron Report had concluded, "Council housing policy has also been distorted for political ends in the unionist controlled areas ... houses have been built and allocated in such a way that they will not disturb the political balance ..." ¹ The British government having accepted the charges of discrimination were "justified in fact", concluded in October 1970 local authorities were not fit to handle the task of ending discrimination in housing allocations or provide a common rent structure. Part of this was due to the fact the location of new working class housing estates was part of the gerrymandering process utilised to deny electoral representation. A "single purpose efficient and streamlined central housing authority", the Northern Ireland Housing Executive (NIHE) was created. Its first meeting took place on 13th May 1971 and between October 1971 and July 1973 it took over the responsibilities of the 61 local authorities, three Development Commissions and the Housing Trust. This included 2,200 former housing authority staff. The "democratic" input to housing was to be three nominees from the unionist controlled Housing Council who joined six other government appointees to form the Executive Board. As an advisory body representing the 26 District Councils it refuses to nominate non-unionists. Accountability lay directly with government ministers for housing management policies and employment practices. The NIHE inherited 146,000 dwellings much of which required significant capital investment or slum clearance.

A key figure was Charles Brett, its vice chair from 1976 and then chair from 1979 until 1984. The first full-time chief executive was John Gorman, 1979-85, a government appointee whose previous experience was in a career with the British Army, the RUC and as Director of BOAC security. During Brett's resignation

¹ *Cameron Report*, Belfast, HMSO, 1969, p61.

speech in 1984 to the Housing Council as chair of the NIHE he declared his regret "that the Board of the Executive has become more political in character than is desirable". He stated the unionist Housing Council had sought to "impose its will and its own interest without qualification on a minority", although he still believed the NIHE was "a model of a housing authority because there is no party politics involved". He added he had done his utmost to:

"act in all matters political with total integrity and impartiality; recognising and respecting all points of view ... I have on occasions been attacked: the Executive has been accused on the one hand of a conspiracy to de-Protestantise Belfast, on the other hand of deliberate failure to devote a proportionate share of its resources to Catholic West Belfast. I utterly repudiate and indeed personally resent both accusations. If I have failed in impartiality, I have failed, but it has not been wittingly or deliberately; and I have spared no effort to ensure the administration of housing should be wholly non-sectarian and non-partisan".²

While few would question Brett's integrity, his assessment in these matters can be challenged. This will be examined by reference to NIHE employment practices and its strategic housing role as a landlord within the political and sectarian context that such services were and are delivered.

Employment.

An important case meriting particular attention concerned a senior Catholic manager at the heart of the Executive's employment practices, Oliver Kearney, then the NIHE personnel manager, the late unionist MP Harold McCusker, Charles Brett and the then director of personnel, a Welsh Catholic, Mr. Mander. The UDA's journal *COMBAT*³ accused Kearney of discriminating against Protestants in recruitment. *COMBAT* noted, "he was seen walking behind the tricolour draped coffin", of the brother of Peter Shevlin, who also worked in the personnel department. The UDA warned, "all concerned that the loyalists are not going to take this lying down". This warning along with pressure from unionists like McCusker produced an intolerable working environment for Kearney. He decided to resign on the 30th November 1982 thereby ending ten years service and sued McCusker for libel. This rested on McCusker's allegation that Kearney abused his

² *NIHE*, 8th March 1984.

³ *UDA*, Vol.4, Issue 9, 1980.

position to promote Catholics and discriminate against Protestants. Prior to this, in November 1981, Gorman had promoted Kearney to a new post of Assistant Director for Manpower. However approval was withheld, according to Kearney, by an Assistant Secretary in the DOE.⁴

At the height of the 1981 Hunger Strike, McCusker wrote to Gorman alleging housing policies were undermining the safety of his constituents. He was extremely concerned that formerly "safe areas for members of the RUC and UDR to live are no longer safe". He further complained "numerous estates 100% Roman Catholic but none of any size 100% Protestant". In an earlier letter to the local housing district manager he accused the NIHE of the "shoddy fixing of allocations", adding if he were in charge, "I could rig things also".⁵

McCusker asked, why is it "in my constituency 4 out of 5 district managers are Roman Catholic " and "why in the Newry district where there are approximately 100 Housing Executive employees are they approximately 100% Catholic". He added:

"Why when the Executive recently recruited graduate trainees were 75% Roman Catholic ... Should I be surprised when your Personnel Manager and his Deputy are Roman Catholic when the interview panel for Manager Trainees are predominantly Roman Catholic if not 100% or so".

He concluded by seeking reassurances that no staff had stopped work over the previous two weeks in support of the Hunger Strike, and declared his intention to ensure "that the people who elected me", get "*their share* (McCusker's emphasis) of publicly financed housing and jobs in your organisation ... Craigavon and Armagh district councils are being pillorized for less".⁶

Another unionist MP, the late Robert Bradford charged the Executive in the House of Commons, of having "a dreadful record in discriminatory acts" against

⁴ Author's personal conversation with Oliver Kearney 1984, and particulars of allegation of discrimination drafted by FEA, 30th January 1984; and Originating Industrial Tribunal Application, December 1982.

⁵ *Correspondence*, Harold McCusker MP to John Gorman, Chief Executive NIHE 19th May 1981 and 12th May 1981.

⁶ Harold McCusker MP to John Gorman NIHE, 19th May 1981.

Protestants carried out by the personnel department. His attack included charges of "religious and political bias in the building programme", because it had "swallowed the lie that persistent and systematic discrimination in housing existed in Northern Ireland (against Catholics)".⁷

Unionists demanded the DOE instruct the Fair Employment Agency to conduct an immediate investigation. This was the public context against which Kearney's libel case was heard during April 1983. Judge Ian Higgins found that McCusker's allegations were "false and injurious" and "that the words complained of are defamatory". He added, McCusker's conclusions owed more to prejudice than to reason or logic". The case was dismissed however on the grounds his comments were covered by parliamentary privilege. McCusker had used House of Commons headed notepaper. Higgins concluded that as McCusker had believed, "in the truth of what he wrote", "malicious intent was absent".⁸

Kearney had already resigned by this stage. He considered the last straw for him was when the director of personnel, Mr. Mander, advised him he was "politically unacceptable". The court case had revealed that McCusker was receiving hand written information on the appointments and character of staff. He refused to name the man on the grounds that to do so would be to jeopardise the career of one of the Executive's most senior managers. Kearney claimed Mander told him the informant was a member of a panel that had earlier interviewed him. This included the then Chief Executive, Victor Blease, Mander, Gorman and Mr. James, Regional Controller for the Southeast region. As Gorman had confirmed Kearney's appointment in November 1981, and James warned Kearney that two other regional controllers were keen to prevent his promotion and had approached him; this left only two likely candidates. Judge Higgins however ruled the circumstances of Kearney's resignation were not relevant to the libel action.

No internal enquiry was carried out by the NIHE. Earlier in August 1982, Mander

⁷Robert Braford MP (Unionist), Hansard, Cols. 15,16,66 10th and 24th June 1981; and David Mitchell MP, Minister for Environment (NI), Northern Ireland Committee, *Housing Conditions in N.Ireland*, House of Commons.

⁸ Judge Ian Higgins Belfast Recorders Court, 29th April 1983; reported in *Belfast Telegraph*, *Irish News and Newsletter*, 29th and 30th April 1983.

had warned Kearney of the possible inflammatory consequences of McCusker's letters during the forthcoming NI Assembly elections. Kearney was directed to "correct" the proportion of Catholics in the personnel department by taking disciplinary action against specific individuals named by McCusker. This included a Mr. Paul Shevlin whose case is outlined below. A transfer to the Eastern Health and Social Services Board was also suggested. In his submission to an Industrial Tribunal, Kearney argued he had been subjected to "an orchestrated exercise in sectarian pressure as to offer him no alternative but resignation".⁹ A further twist to this intrigue occurred in 1983 when PA Management consultants in Belfast, advertised for a Manpower Services Manager for an unnamed client. Kearney applied and was duly interviewed on 28th October. On the 7th November PA confirmed his place on the short-list. Kearney stated 'silence then enveloped the proceedings'. The employer turned out to be the NIHE. No appointment was made. Kearney lodged a formal complaint with the FEA on 30th January 1984. By 1986 the FEA had failed to obtain essential correspondence from the NIHE and in the middle of 1987, three and a half years later the FEA concluded no unlawful discrimination had occurred.

Paul Shevlin also worked for the personnel department. His association with Kearney loomed large. Charles Brett, then Chairman, advised Kearney on the 18th August that the unionist NIHE "Board still harbour deep suspicion of your association with Shevlin".¹⁰ McCusker had included Shevlin in his public diatribes. The individuals felt their personal association was one of the reasons for the concerted campaign against the personnel department by unionist MP's. Shevlin claimed Mander had attempted to summarily dismiss him in July 1983. This followed an internal Auditors report alleging corruption over the recruitment of a training consultant and a newspaper article in the local West Belfast *Andersontown News*. It alleged three Catholics in the personnel department were being discriminated against. It appears this public exposure led to direct intervention by Brett to prevent Mander carrying out this action. Shevlin however was suspended and subjected to the humiliating experience of being supervised by a senior

⁹ Industrial Tribunal Application, 1982 and particulars of allegation of unlawful discrimination.

¹⁰ Kearney, Oliver. *Study of Employment Experience* of four people employed in the NIHE, July 1983.

security officer while clearing his desk before being publicly escorted from the building.¹¹ Brett stressed his "confidence in the integrity" of Mander and referred to staff suffering from an "incurable chips" syndrome. Shevlin in turn submitted a closely worded 14-page document alleging political victimisation against himself and three others, including Kearney. Brett rejected the submission calling it "a farrago of half-truths, false inferences and malicious innuendo".¹² Shevlin later won a case of unfair dismissal at an industrial tribunal in April 1984. Mander's actions were criticised as "unreasonable and unwarranted". The NIHE refused to reinstate him.

In July 1981 the Environment Minister conceded to unionist's demands and agreed to direct the FEA to conduct an enquiry with specific reference to their allegations of discrimination against Protestants. Brett welcomed this. However the FEA Chairman advised Brett, "There has as yet been no contact from the Minister ... The agency is not therefore in a position at the moment to determine what action should be taken".¹³ Instructions duly arrived on the 10th July and the FEA finally issued a notice of investigation on the 29th March 1982. The Minister told Cooper to "keep me in touch". The material gleaned from this enquiry can usefully be cited at this stage to complete the picture.

Brett revealed in his correspondence with McCusker that although "he should regard (it) as a highly retrograde step", if the religious affiliation of job applicants were recorded, some "trial balances", "so to speak" had been recorded. These unofficial and private trawls revealed "the total staff of the Executive divides somewhere between 66:33 and 50:50 in favour of the Protestant community". The Executive attributed a "preponderance of Protestant" in certain areas to the numbers of staff "inherited" from those local authorities previously responsible for housing provision. In addition Brett provided McCusker with the religious breakdown of the staff in his own constituency.¹⁴ Seven days later Brett advised

¹¹ Personal conversation with author 1984.

¹² *Correspondence* between Charles Brett Chair NIHE and Paul Shevlin, 13th and 19th July 1983; and Kearney, Oliver. *Study of Employment Experience* of four people, employed in the NIHE, July 1983.

¹³ Robert Cooper Chair FEA to Charles Brett Chair NIHE, 7th July 1981 and David Mitchell MP Minister for Environment (NI) to Cooper 10th July 1981.

¹⁴ Brett to McCusker, 22nd May 1981.

McCusker that any absence "due to voluntary participation in political activities (attendance at marches or funerals in support of Hunger Strikers) will be reported with a view to possible disciplinary action".¹⁵

McCusker replied criticising Brett for only suggesting in some areas "there may be a preponderance of Protestants - in fact there should always (his emphasis) be so if your employment practices are in keeping with the objective of the FEA".¹⁶ The FEA's investigation took over three years to complete. Ready early in 1985, its issue was delayed until well after the marching season in October 1985. The FEA concluded that "by and large equality of opportunity in employment is being provided by the Northern Ireland Housing Executive for both Protestants and Roman Catholics ... further detailed investigation of recruitment and promotion was not necessary". The specific meaning of "by and large" as a measure in relation to equal opportunities was not amplified. Unionist's claimed the draft report had been sent to the NIO for final vetting and alteration. The report did not examine any of the specific issues raised by the Kearney case; McCusker's allegations, nor the replies given by Brett. The FEA merely recommended the Executive adopt the government's voluntary equal opportunity code. No targets, goals or programmes of action were established. In its preface to the final report the FEA noted the enquiry was in response to "problems in the Executive which suggested that in some areas there was discrimination against Protestants".¹⁷

Although 5000 workers were then employed the enquiry was restricted to 3,500 non-industrial workers. One year after the enquiry had formally started the FEA sent out a voluntary religious questionnaire to Executive staff. When this failed, the FEA gave notice in June 1984, two years after the original notice of enquiry (March 1982), that the elementary task of directly examining personnel records to establish religious affiliation was "the only acceptable method". In the event only a limited examination was carried out. As the Housing Executive is divided into six major administrative regions covering the whole of the North the opportunity to offer reasonable employment opportunities for both religions exists. The

¹⁵ Brett to McCusker, 28th May, 1981.

¹⁶ McCusker to Brett, 29th June 1981.

¹⁷ *Report of an Investigation* by the FEA for NI into the NIHE, October 1985.

opportunity for examining this in detail presented itself but was not taken.

In overall terms the composition of the workforce examined was 61.9% (2172) Protestant and 36.6% (1284) Catholic with 1.6% (55) Others or unidentified. In the primarily Catholic South and Western regions the proportion of Catholics at 7-10% were comparatively lower than the actual population figures indicated. For example, in the South the 410 staff were 45% Catholic (55% population); in the West, the 246 staff were 50% Catholic (the population 57%). In terms of the occupational patterns the FEA expressed its satisfaction with the "the single exception of technical services". Out of 354 staff, 71.2% were Protestant; 26.3% Catholic and 2.2% Others. A further examination of occupational groups revealed major disparities in key areas at both the regional and overall levels. In technical services for example overall patterns of inequality were mirrored across every region with Protestant ratios exceeding Catholics by two to seven times.

The FEA did not examine the causes of this disparity or suggest specific programmes to overcome it. In the Northwest, due to "particular (loyalist) allegations about over-representation by Roman Catholics in Londonderry", a specific analysis was completed. The religious composition given was 52% Catholic, 45% Protestant and 7.6% Others. The Catholic population for the region was 56%. This compares with the Protestant Northeast where Protestants hold 81% of the jobs and represent 77% of the population. In the Northwest the only comparable Catholic figure was in the Derry district office. There, 69.9% (72) of the workforce were Catholics as compared to 31 Protestants. Within the Northwest region, only in Strabane did Catholics exceed the number of Protestant workers 18 Catholics to 15 Protestants. In the three other district offices, Magherafelt, Coleraine and Limavady, Protestants accounted for 66% (60) of the 91 total staff. In the Northeast, in the tiny Ballycastle office, Catholics exceeded Protestants. (8RC, 5P) In the other seven offices the proportions ranged from a high of 25.5% (11) in Antrim to a low 9% (6) Catholics in the two offices at Newtownabbey.¹⁸

The majority of Catholics employed, 958 (total 1284), in the Executive occupied

¹⁸ All references to the NIHE are from the *FEA Investigation Report*, 1985.

administrative and clerical grades. Of the employees inherited by the Executive, 607 (17.3%) were still employed. This group alone filled 3.5% (86) of senior management positions. Seventy of them were Protestants. From the pool of 224 managerial staff (i.e. PO1 and above), 67 (27.5%) were Catholic. In one year, 1980, more Catholics were recruited than Protestants. The Executive explained this was due to the appointment of 226 supernumerary staff who later became permanent. Contrary to Brett's claims that religion was never monitored, it was found that the Executive Board was so concerned at this phenomenon that they instructed the recruitment be investigated. This showed 55% of the recruits were Catholic, but "no improper discrimination", had occurred. The recruitment of Catholics was clearly a matter of deep concern at all levels.

The FEA opted for the politically safe conclusion that discrimination had occurred in the past particularly in the group inherited by the Executive from local councils and the former Housing Trust. It was all in the past. The public scandal of the Kearney and Shevlin cases indicated at the very least sectarianism remained a contemporary and highly sensitive issue at the most senior levels.

The unionist controlled Housing Council that nominates members to the NIHE Board continued to only nominate unionists. In 1983 it rejected any moves for contractors to become equal opportunity signatories as they considered this to be "discrimination against firms who do not hold an Equal Opportunity Certificate issued by the FEA".¹⁹ Requests by the Minister to nominate non-unionists were not responded to. In line with the wider 'loyalist family', the Board participated in the adjournment protests against the 1985 Anglo-Irish Accord. In December 1986 two NIHE officials who were founding members of the Fair Employment Trust, a voluntary body set up to campaign against discrimination and promote the MacBride Principles were informed their duties, "were incompatible with membership of the Trust on the grounds that the MacBride principles are contrary to the employment laws of Northern Ireland". Although no legal opinion was ever produced the NIHE made it clear their views were in accordance with the public statements made by the FEA. The Trust in turn accused the NIHE of attempting to

¹⁹ Local press reports 21st and 22nd April 1983 –*Irish News, Belfast Telegraph*.

"subject our members to political intimidation in its most sinister form". All non-unionist parties made public protests. The Trust asked why membership was unacceptable when no action had ever been taken against employees who were members of avowedly sectarian groups such as "the Masonic Order, the Orange Order, the Ulster Clubs", and others. In 1987 the men were threatened with the sack and denied internal promotion. Their trade union, the Northern Ireland Public Service Alliance (NIPSA), condemned the Executive's action and accused it of breaking its own code of conduct. NIPSA asserted the rights of its members to "belong to any legal organisation".²⁰

It's worth recalling at this point Brett's confidence in the integrity of his management team and his belief that, "we have established a reputation for fairness and impartiality" and his pleasure that Board members "leave their prejudices outside in the umbrella stand". Two years later in April 1989 the NIHE finally took the initiative and announced a decision to monitor its workforce. Taking the 3rd of July 1988 as its starting point the workforce was given as 54.5%(1788) Protestant; 41.6% (1366) Catholic with no religion assigned to those educated outside the North (109 or 3.3% and 0.5%Unknown). The Technical Services Division remained dominated by Protestants (60%, 599 Protestant; 34%, 377 Catholic). At the regional level inequalities persisted in the Northeast and Southeast. Protestants accounted for 76.2% (304) and 70% (305) of the staff respectively. In the two regions where Catholics formed the majority, (West and Northwest), the respective figures were 55.9% (133) and 60.2% (241). An analysis by grades indicated Protestant representation was higher at middle and senior management levels than their overall percentage in the workforce (63.4%, 473). Catholic proportions were correspondingly lower (30.6%, 228). Above PO2 level, the religious composition was 53.8% (28) Protestant and 21.2% (11) Catholic. The longer service record for Protestants was reflected in their seniority and higher rates of retirement.²¹

This new database anticipated the 1989 Fair Employment and offered a distinct improvement on the FEA's work. It also meant the government and its agent were

²⁰ Local press reports on the Fair Employment Trust, 11th and 30th December 1986; and 3rd, 7th and 9th February 1987. *Irish News and Belfast Telegraph*.

²¹ *Equal Opportunities Monitoring in the NIHE*, April 1989 NIHE Belfast.

clearly aware of patterns of inequality within the NIHE.²²

Physical Strategies.

By the mid 1990's NIHE housing stock was approximately 160,000 dwellings with over 50,000 dwellings having been sold to tenants under the Right to Buy scheme.²³ The 1987 House Condition Survey indicated unfitness rates for the public sector of 1.4% with 10.6% in need of improvement and repair. The private sector by comparison had an unfitness rate of 11.8% with 17.2% in need of repair and improvement. The overall unfitness rate however was down to 8.45% (42,900 dwellings). In 1972/3 one in five or 19.6% of the total housing stock was statutorily unfit (89,370 dwellings); 60% of these were in Belfast with over 40,000 in need of urgent repair. The NIHE also manages the housing benefit scheme that provides help with rent and rate payments to council and private tenants, and owner-occupiers. Around 130,000 households receive over £130m a year through housing benefit support.

The physical challenge was great and remains so amidst a set of very complex relations involving the government directly via the DOE, the NIHE as its agent, tenants and the sectarian environment. Another aspect of this physical challenge were the question marks remaining over the whole planning and allocation process which had previously been characterised by unionist sectarianism. In Dungannon, for example, housing provision became an explosive issue. In 1963, there were approximately 300 families on Dungannon's waiting list, some for as long as twelve years, yet not one new Catholic family had been allocated a permanent house for 34 years. Out of the 204 houses built since 1944 in the area of the Dungannon Catholic Parish, two were allocated to Catholic families.²⁴

Other examples of perceived sectarianism in the planning process were the creation of a whole new town, Craigavon named after Stormont's first prime minister and

²² Its monitoring returns to the FEC in 1992 for example gave the number of Catholics employed in its 5231 workforce as 2313 (44%).

²³ *NIHE Housing Strategy, 1993-96 and 1987 House Condition Survey*, NIHE Belfast 1988.

²⁴ *Plain Truth*, Campaign for Social Justice, Dungannon, June, 1969.

the new university at Coleraine. Controversy over the latter decision raged as many nationalists felt Derry to be the obvious choice. It already had strong educational traditions and was the North's second major city. It was a city however which unionists only held by gerrymandering. This made any investment insecure in unionist eyes. Over £500m was spent on the new "rainbow" city, which was to cover 100 square miles with a population target of 100,000. It proved to be an expensive failure. Whole public sector housing estates were later demolished due to poor design and high vacancy rates as people declined to live in what was regarded as an artificial environment without any proper infrastructure. The Lurgan/Portadown triangle has also become infamous for the number of sectarian murders by loyalists and the Drumcree march debacle.

The English architect appointed to design the new city resigned making a 7000 word public statement. He said he had been "asked to engineer propaganda rather than a new city", and that Derry was the most obvious choice as a centre for industrial development and higher education.²⁵ The new city and university failed. In 1985 the university merged with the Ulster Polytechnic to form the multi-campus New University of Ulster to avoid closure. Craigavon's unemployment rate averaged 26% and the population targets were never reached. Problems may have been compounded by the local council's reputation for blatant sectarianism in employment over the provision of sports facilities, play areas for children, refuse collection and so on. In 1992 it employed 123 Catholics, mostly in lower grades in its 382 workforce.²⁶ Some of its more celebrated cases are examined later. It is likely that the nature of Craigavon's high profile loyalist stance alongside its tragic record of sectarian murders impeded population choices and its failure as a new city.

One important question to be asked is was the approach of "sectarian blindness" adopted by the Executive within the context of its structural and ideological inheritance one which directly assisted the reproduction of sectarian ghettos and passively promoted military planning and the creation of "secure zones" or was it

²⁵ *Irish Times*, 15th August 1964.

²⁶ *FEC Monitoring Return* 1992.

simply an agent caught up in a political trauma which it could not hope to overcome within its own remit and limited powers? Although the sectarian allocation of houses was a major civil rights issue, no serious analysis of allocations has been carried out. In part a "self-selection" process whereby people opted for "safe areas" according to their religion left any concept of integrated housing estates no more than an empty platitude. Sectarian or religious blinkers also meant that the application of capital investment could be couched in a traditional housing needs criteria as opposed to an investment strategy that recognised the historical geographical inequalities associated with active discrimination. Competition for resources in this context could be presented and deliberated upon from an even starting point. Thus as with the labour market the government and its agents chose to legitimise their approach by assessment of an individual's needs as opposed to for example designating a specific capital allocation for given religious communities. The administration of housing services via six regions simply placed the regions in competition with each other for resources as opposed to weighting the resources by religion. At the individual level the impact of universal policies such as the right to buy or repair grants was not assessed with reference to the generations of advantage given to employed Protestants to secure the best houses, areas and financial discounts. This in turn was compounded by the intensifying civil conflict that saw whole communities burnt or intimidated out of their homes.

Competition for finite resources and debate over military intervention in the planning process remained significant areas of conflict. A major example was the Poleglass estate, built as an overspill for Catholic West Belfast. As it is located within the boundaries of loyalist Lisburn on the edge of Belfast, its development led to large loyalist protests and threats of para-military violence. Put forward by the DOE in 1973, construction did not begin until December 1979. Public objections by the unionist parties and the UDA moved the DOE to adopt a much-reduced scheme. The DOE had earlier declared that without Poleglass, "the regeneration of inner Belfast could not be achieved in the west of the city". It proposed the building of 4000 units to cater for the needs of 18,000 people. By the

end of 1989, 1,563 public sector houses had been provided.²⁷ Threatened with UDA violence the first tenants had also to endure the open hostility of Lisburn council. One loyalist councillor was also a member of the Executive Board. He demanded building should stop because some tenants had arrears. A common popular loyalist charge was that rent arrears were republican inspired as opposed to having a correlation with unemployment and material deprivation. The Council refused to provide a refuse service, or support a proposed community centre and turned down permission for a public library and health centre. The DOE had to eventually make an order under the Public Health Act to force Lisburn to provide a refuse service. The Commissioner for Complaints found the council guilty of maladministration for refusing to allow its community service minibus to be used by a Catholic school for an All-Ireland football match. Arrears on the estate were in fact below the average at the time.²⁸

The Executive's role in this affair, by passively accepting and endorsing sectarian planning decisions and tolerating sectarian councillors on its board may be viewed as a certain dereliction of duty with regard to its statutory role to provide housing free from discrimination. The following examples tend to support this.

Divis and Unity flats²⁹ in Belfast were two of the worst examples of system built flats that the 1960's planners had to offer. Many of the occupants came from areas where they had been subjected to loyalist intimidation or simply burnt out. While the Catholic residents of these blocks fought long and hard campaigns for repairs, demolition and redevelopment, their counterparts on the Loyalist Shankill Road had their equally reasonable demands met. Two storey dwellings replaced the 750 "Wheatabix" flats. Nationalists campaigning for the same were pilloried as republicans, terrorists and uncivilised. Divis residents also endured 24-hour sound and camera surveillance from a permanent British Army base perched on the top of Divis Tower. The Divis Residents Association developed into a major international campaign that was able to take advantage of the political disturbances caused by the Anglo-Irish Accord. Under pressure from America and the English housing

²⁷ *Greater West Belfast Housing Study, 1985-1990*, DOE (NI) January 1985.

²⁸ Graham, D. (1984) *Opposition restricts Poleglass Project*, Roof, Shelter, London.

²⁹ Graham, D. *Unity Flats –Criminal Neglect*, North Belfast Resource Centre, 1985; *The Divis*

lobby, which adopted the campaign, a commitment was eventually forced from the government to demolish late in 1986. Unity Flats residents which loyalists described as a "cancer on the main artery of Belfast", intensified their campaign and secured demolition and redevelopment on the back of this decision the following year. They both failed however to gain any right to produce their own redevelopment plans or select appropriately skilled professionals to assist them in any form of community planning. Indeed the Town and Country Planning Association in London had provided the services of its mobile Planning Aid Unit led by Brian Anson, a leading community architect, to support the residents. When a major exhibition in London by the group generated international coverage leading to the residents demands being raised in Washington, Moscow and throughout the British housing world, the Unit's funding was cut by the DOE. This followed the refusal of Brian Anson, supported by the TCPA to have an agenda, which was other than the tenants.³⁰

In January 1985, the DOE published a housing strategy for the Greater West Belfast Area up to 1990. It included the Catholic estates, Poleglass and Twinbrook, in Lisburn. The report accepted that the areas youthful age structure and large family size indicated it was likely to grow well beyond its current population of 93,100. The DOE recognised the possibility of families from the area moving to other areas of the city "is very small" and that "West Belfast has the lowest level of owner occupation of any part of the city". The option chosen by the DOE simply reinforced the sectarian practices of earlier administrations by concluding "any additional land to deal with housing needs of Greater West Belfast must therefore be found within the same area".

Further expansion into loyalist Lisburn or other Protestant areas was ruled out leaving the population to endure further pressure in terms of services, population size, density, housing shortages and diminished potential for employment

Report – Set Them Free, Divis Residents Association, September 1986, Belfast.

³⁰ Interview with Brian Anson by author (1986) who became a member of the planning group chaired by the TCPA after the Unit's demise. At the end of 1986 the TCPA invited the DRA representatives and advisors to their headquarters to discuss the implications of TCPA's continued involvement due to the extreme pressure from government. Respecting this difficulty and the fact the TCPA had gone out on a limb to help, the DRA undertook to use the name of the TCPA with circumspection. Brian Anson and his team however were left without funding by the DOE.

opportunities within the area.³¹ As the DUP said, "People do not want a ghetto line stretching from Castle Street in Belfast to Dunmurray".³² To avoid this industrial areas in West Belfast would be rezoned for housing thereby eliminating the possibility for any significant future investments. The DoE had in effect ceded to a sectarian inspired agenda and failed to ensure the planning process was placed outside such a framework. These short-term measures may have accorded with the personal beliefs of DOE civil servants but nevertheless a physical planning decision of such a magnitude is one that has an impact on the opportunities for several generations. This can only blight their futures.

Inequalities.

During the late 1980's an initiative by the Standing Advisory Commission on Human Rights led to the production of two studies which sought to assess whether there was equal access to housing, a parity in standards, loans and new build and the degree of integration. The first, *Inequalities in Opportunity*, remains unpublished while the latter, *Equality and Inequality in NI: Public Housing*, was published by the body commissioned to carry it out, the independent Policy Studies Institute.³³

Hillyard considered that while the NIHE recognised a problem of polarisation existed there was no positive policy to achieve or promote overcoming this as a corporate objective. The points system introduced to provide a needs analysis ensured a focus on individual circumstances but offered no indicator for community or investment needs. The latter strategies were primarily left to the DOE e.g. Poleglass. In short "need" was considered to offer a robust enough yardstick to reflect historical and particular circumstances. Administrators then, could act within a terms of reference which by their nature precluded any measure of religious inequality, a practice that could be defended as neutral but which in effect failed to challenge or seek to positively intervene in an environment where

³¹*Greater West Belfast Housing Study*, 1985-1990, DOE, Belfast, January, 1985.

³²*Newsletter*, Belfast, 23rd January 1985.

³³Hillyard, P. *Inequalities in Opportunity among Protestants and Catholics in Northern Ireland: An exploratory study of Housing Policy*, University of Bristol, March 1986, unpublished, and *Equality and Inequality in NI: Public Housing*, Policy Studies Institute, London, Smith, David J. &

the struggle over space and resources were and remain highly politicised. In addition as the Right to Buy and new build had not overwhelming changed the tenure type and standards of housing at this stage, (1971-73) ownership, overcrowding and house fitness indicated, that Catholics suffered worse conditions, had fewer facilities and opportunities than Protestants e.g. where Catholics were in the majority in nine district councils, these areas experienced the highest rates of unfitness.³⁴ At the political level, unionists felt confident enough in the late 1980's to question whether the "state has a responsibility to provide houses for people who belong to a faith that encourages them to make absolutely no attempt to control family size".³⁵

In addition, Hillyard suggested that the very success of the right to buy policy gave an advantage to Protestants as their cycle of income would allow them to purchase the better quality of stock they had resided in during the 1950's and 1960's which by virtue of occupation through earlier sectarian location and investment decisions gave them the asset of an historical discount, i.e. a financial and locational subsidy. Catholics through the development of new build in the 1970's and 1980's would thereby only gain this advantage over a longer time span. This may also mean that much of what is in effect becoming a residual form of housing for low-income groups may eventually become a primarily Catholic rented sector. Similar economic criteria may also influence rehabilitation programmes for sub-standard privately owned property. In essence then this approach is suggesting that the absence of a macro socio-economic strategy in terms of housing investment decisions, inevitably means that other factors, apart from a criteria of need, no matter how individual and objective, must necessarily have contributed to sustaining inequalities. A hidden subsidy and penalty.

The PSI study also raised doubts about equality of access to public housing. While the results were inconclusive, the report confirmed a higher proportion of Catholics occupying public sector housing (43%) than Protestants (33%) thereby confirming the impact of social and economic factors over time. It was notable that the repair

Chambers, Gerald. PSI Occasional Paper 47, 22nd June 1989.

³⁴ Hillyard, P. pp.11,12,18,20.

³⁵ *NI Assembly Report*, 13, November 1985:94.

conditions of Catholic estates in Belfast in particular were below that of Protestant estates as reflected in the average improvement costs. Significantly when a test of equality of access was carried out in Belfast, Catholic applicants had " a considerably lower chance of being rehoused than Protestant applicants". This pattern was reflected across district towns but found to be roughly even in rural areas. When looking at the reasons for this, one conclusion was that Protestant tenants had a greater potential for changing tenure or accommodation and that properties on Catholic estates are less likely to become available to new tenants than those on Protestant estates.³⁶

This would support the contention put earlier in relation to the DOE analysis of future need that the physical restriction of development in Catholic areas compounds problems of access and location and restricts spatial and personal mobility. The younger age profile of West Belfast can only increasingly exacerbate these tensions and disparities. The fact of segregation across all tenures, the PSI concluded, raised the possibility that NIHE policies and practices had directly contributed to "residential segregation between Protestants and Catholics".³⁷ Although there was no conclusive evidence of direct or indirect discrimination the PSI felt the "public housing system did not succeed in delivering equal opportunities to Protestant and Catholic applicants, probably because Protestant tenants were more likely than Catholics" to change tenures. In other words, the question of equity was again seen not simply as a narrow issue of personal need but the historical weight of equality of access to resources and socio-economic conditions which provided the overriding context for housing opportunities. The PSI commented that as the repair problem effected Catholic estates disproportionately, repair schedules should be planned to produce a more equitable result. Or as Hillyard noted earlier, a positive and direct intervention is required, beyond the personal circumstances of a given applicant.

Hidden factors.

Another factor rarely subject to scrutiny in assessing housing demand is security.

³⁶ Smith and Chambers, pp.27-29, 42-43, 56.

³⁷ Ibid, p58.

In the early 1970's the so-called corrugated iron "peace-lines" were an obvious expression of this concern. Many of these have become permanent brick or steel walls, or unnecessary motorways cutting off a particular area. Requests for these barriers are usually directed through the Belfast Development Office (BDO) which was a division of the DOE. There common interests such as accessible estate lay-outs, the blocking of potential escape routes, the reinforcement of paths in estates for military vehicles, ramps to slow traffic and secure estate lay-outs are all mapped out. High rise walls can cost as much as £240,000 be twenty feet high, and run for hundreds of feet. The cost is met from the housing budget.

Intimidation is very costly. A new housing development at Manor Street in North Belfast was the target of intense loyalist attacks at the peak of protests against the Anglo-Irish agreement in 1986. Twenty-five new houses previously occupied were demolished in 1989, as they proved too dangerous or impossible to let. One 13-foot wall built in 1985 to separate part of the Shankill Road from the nationalist Ardoyne offers an interesting insight into how the security forces operate. The BDO claimed the request came from the residents. Locals however alleged this "need" was manufactured by the security forces by a series of bomb hoaxes and unnecessary searches by the British Army during 1984-85. It was also claimed there was no record of these incidents being logged at the local RUC barracks. There are however clear examples of where residents have demanded the closure and blocking of public ways to prevent sectarian assassins having easy access points or escape routes. Allegations have even been made by republicans that the failure to close some routes has been part of British policy to intimidate the local population or assist collaboration. Whatever conclusions one reaches it is self evident that the erection of barriers may serve a primary security interest alone while damaging the long term potential for reconciliation by cutting off all interfaces and exchanges permanently.

Another case was the building of a wall at Springmartin, a loyalist area overlooking a British army base. A number of leaks from within the DOE and NIHE during 1982 revealed the degree of collaboration between the BDO's planners and the British army. A special "Security Committee on Housing" was created excluding the NIHE. This exercised a veto over any development

proposals. It inevitably filtered down into the day to day practices of the NIHE. For example one internal memo outlined problems in the loyalist Oldpark. "The area suffers sectarian strife. Future real demand from 'Orange' will be minimal, while future real demand from 'Green' will be maximal. The problem is to proceed to public enquiry, where sectarian issues are likely to be raised since 'redevelopment' will be seen as the replacement of Protestants for more Catholic houses".³⁸ Press articles carried by *The Guardian* and a local community magazine in early 1982 added further confirmation of the military's role. For example, in the Catholic Ardoyne a row of houses was arbitrarily removed from the redevelopment programme without the knowledge of the NIHE. This occurred after the NIHE had submitted plans for approval to the BDO. The military regarded this as a potential security threat due to their proximity to the loyalist Woodvale area. The head of the BDO to the Belfast Regional Controller stated:

"We have in recent months sought to remind everyone concerned in DOE and NIHE of the need to involve the security forces at an early stage of proposed new works involving new buildings, road realignments etc. We have however subsequently had several instances where it emerged that plans were afoot - and virtually at a starting date - where the proposals were unacceptable to the Security Forces and we have had to make last minute and potentially costly changes".³⁹

"Costly changes", were successfully avoided during the redevelopment of the New Lodge at the junction of the Antrim Road in North Belfast during 1986. This was done in such a way so as to 'turn' the corner houses to provide the permanent military post at this junction with a clear field of fire and vision as far as Artillery Flats. There, another base was perched on top of the flats conducting constant sound and camera surveillance. Again in 1986 when the NIHE finally caved in to a momentous struggle by the Divis Residents Association, to achieve demolition and redevelopment a hidden agenda was discovered. The NIHE had 'commissioned' an analysis from the RUC, which concluded they would favour either of two options. The isolation and partial demolition of the blocks or total demolition with replacement by two storey dwellings. The RUC considered the latter would enhance "security surveillance and hot pursuit of known criminals", i.e.

³⁸ *The Guardian*, 13th March 1982; *Scope*, Belfast, April 1982.

³⁹ *Irish News*, 15th March 1982, Belfast.

republicans. The 19 storey Tower Block should stay as it provided the British Army with a clear vantage point over the entire city as well as Divis.

The NIHE were obliged to confirm security considerations swung the balance in favour of demolition. The RUC document specifically identifies "(a) the problems of pursuit (b) the difficulties for residents surveillance", and the "Divis connection with over 500 stolen vehicle and joy riding incidents during 1985". It also noted that a recent conference at Downing Street on crime prevention, "the importance of tenant security", and "the disappearance of the severe policing problems following demolition of the T Block in Turf Lodge" (a nationalist area). The local residents association stated they had never before noticed a concern for tenant's security by the RUC.⁴⁰

Another critical example was Unity Flats in Belfast. In July 1987 the residents campaign for demolition was acceded to. Informal approaches to the residents by NIHE officials had suggested if they accepted removal to another area, the government would more readily bow to their demands. This was rejected and the struggle to demolish and rebuild on the same site pursued. However the price of this victory, was the loss of 100 units and the refusal to use adjacent derelict land for additional housing. An eight-lane motorway was proposed to be constructed along the edge of the estate thereby sealing it in on four sides by motorways. Belfast is a small provincial city, which does not require an eight-lane motorway in terms of traffic volumes and car ownership. Immediate access to the city centre would be denied thereby restricting the easy flow of a nationalist population.⁴¹

The point of the above examples is not to construct a scenario which demands military intervention at all levels of planning. However, when military forces consider they do have an interest, this can clearly be to the detriment of the 'normal planning process'. The Housing Executive, in these circumstances, demonstrated itself to be no more than the passive or active agent for forces much

⁴⁰ *RUC report* on Divis and record of meeting attended by author with Divis Residents Association and the NIHE, 1986.

⁴¹ In the end a very wide five lane motoryway (one a slip road leading to the multi-story car park at the back of a new shopping centre) was constructed thereby creating a secure military "clean" zone around the flats.

stronger than itself. An agent controlled is one where the agenda is dictated elsewhere and thereby leaves questions as to the integrity of the administration and the degree by which it can be wilfully manipulated to meet objectives beyond its stated remit. It is also a comment on the unaccountable nature of quangos, especially a housing one whose clients are very much on the outside looking in.

Intimidation.

It would be an oversight in any debate over the allocation and use of resources not to indicate the sometimes violent and extreme situation faced in the provision of housing services. In November 1985 the Anglo-Irish Accord was formally signed. Tom King, then Secretary of State declared its purpose was to create, "a more peaceful, tolerant and prosperous society". In violent scenes reminiscent of the early 1970's, loyalists subjected the Catholic population to intimidation, firebombing of homes and sectarian assassinations. In Lisburn for example 114 families were intimidated or burnt out. Another 47 demanded to be rehoused in another area. One attack at Jeremy Walk saw loyalist's seal off the estate, cut the power from streetlights and then proceed to stone and petrol bomb every Catholic house. The mob chanted "Get the Fenian bastards". Although the attack lasted from 10pm until 1am the press reported residents' claims that the RUC failed to put in an appearance.

During April 1986 alone, the RUC reported 79 attacks on Catholic homes, 337 formal complaints of intimidation and 92 attacks on Catholic premises such as church halls, schools and commercial property. One factory sustained £2m worth of damage. On the 12th July weekend another 71 families were forced out. On the edge of the Catholic New Lodge in North Belfast at Hillman Street, one family was forced to leave a newly completed house by a group of 200 men in para-military uniform. The British Army constantly patrolled this area. Opposite the New Lodge in the newly completed development at Manor Street, 22 families were forced out. Their houses were demolished in 1989.

Another shocking attack occurred in the village of Rasharkin in Co.Antrim. Loyalists in paramilitary uniform carrying sledgehammers, hatchets and iron bars

systematically attacked Catholic homes beating up anyone too slow to escape. By September 1986, the NIHE had recorded 392 requests for transfers due to intimidation and violence. Of these 228 were given priority status. No action was taken by the NIHE to terminate the tenancies of those found to be actively involved in the physical attacks on their neighbours. Frightened tenants in Agnes Street, South Belfast, after their houses were engulfed in flames and they narrowly escaped, condemned the Executive for doing nothing. They demanded to know "how much longer will you leave it before someone else is killed", as they sought refuge outside the area. One family that fled to Peterborough was granted refugee status. Local Tories criticised this as opening the "floodgates for other Irish families".⁴²

Petrol bomb attacks and bullets in the post became so commonplace as to attract only a passing footnote in the press. One savage attack on a Protestant family occurred at Steelstown on the outskirts of Derry. Petrol bombs thrown at farm buildings destroyed thousands of bales of fodder, farm equipment and family pets. An editorial in the *Republican News* condemned, "the people who carried out this attack (and) inflicted needless suffering on a blind old woman and her family for a purely sectarian motive".⁴³ The UDA which was still a legal entity at the time was responsible for car bombs in Dublin killing 21 and a long litany of sectarian assassinations in the North expressed no reservations about its terror campaign then or now. Indeed a British TV series interviewing former loyalist terrorists bore witness to their, on the whole, vigorous endorsement of individual terror.⁴⁴

Their contribution to the housing debate, apart from burning people out of their homes, was usefully captured in the UDA's views on the decision to demolish Divis. An editorial in its journal *ULSTER* thundered:

"And when Divis comes tumbling down, where is the NIHE intending to accommodate these mealy-mouthed scavengers? Will Poleglass be extended or will further encroachment into Protestant areas be on the agenda.

⁴² Details of these incidents are recorded in the local press especially April to December 1986. See Graham, D. 'Housing Terror in Northern Ireland', *Roof*, Shelter, November/December 1986; *The Guardian*, 1st October 1986; Graham, D. 'Northern Ireland: smooth talking about tough times', *Roof*, November/December 1987, Shelter.

⁴³ *AP/RN* 13th August 1987.

⁴⁴ *Loyalists*, Taylor.P. March 1999.

Whichever way it goes, the memory of stench-filled Divis should remain in Protestant minds as a poignant reminder that this is the way we would expect to stagnate in any future, All-Ireland Socialist State. There's food for thought".

ULSTER further added, Divis should

"remain standing, gaunt against the West Belfast skyline, as a grim reminder of how Catholics can turn a palace into a human cesspool...are their filthy habits too deeply ingrained to be removed"? ⁴⁵

Physical violence has not abated; it is simply not as widely reported, unless there is an immediate and larger political backdrop. The catalogue of despair and hatred quietly continues.⁴⁶ Paradoxically, while this context attracts a 'sympathy vote' for the NIHE, especially in the British professional press, this attitude lends itself to a lack of enquiry and analysis that both reports above noted was a serious deficiency in the development of public policy. It also effectively accepts as given assurances about equality that have not been resolved.

CONCLUSIONS.

More than thirty years after the introduction of the Housing Executive as the main provider of public housing ample evidence remains to demonstrate its extreme sensitivity to the various forces of loyalism and the more covert policies of the British government. The earlier objective of integrating and rebuilding communities has long since been abandoned. This was clearly beyond the realm of its own abilities. The wider political crises have however been faithfully reflected in Executive management and recruitment practices. For this it carries direct responsibility. Its ready accession to forces stronger than itself may be considered inevitable but no less excusable given its statutory duties and wider responsibility to those in need of a housing service which is equitable and fair.

⁴⁵ *Ulster*, September 1986.

⁴⁶ During the current peace process the level of intimidation against Catholic families by loyalists has continued. The NIHE's Annual Report for 1998 reported 318 people were given priority housing due to intimidation and over 253 private homes had been bought back at a cost of £9m to the public purse. (*NIHE Annual Review*, September, 1999). An added twist to this was the internal loyalist feud on the Shankill Road during 2000 that led to loyalists intimidating fellow loyalists out of their homes.

Historical and contemporary studies continue to confirm the existence of major inequalities in public sector provision, material conditions and employment practices. While quantitative changes have undoubtedly occurred in terms of the physical stock, qualitatively, things remain very much the same. The reasons for doing little to actively overcome existing inequalities in terms of religion continue to be presented as ‘something beyond our control’. The integrity and ability then to provide a service, which is beyond reproach, above manipulation by other covert and overt interests and one, which visibly demonstrates that under Direct Rule the issue of inequality has been overcome, has not been achieved.

Chapter 6. Equality of Opportunity in the Private Sector.

Introduction.

The following assessment includes key manufacturing employers such as Harland and Wolff shipyard, Short Bros., manufacturers of aircraft and missiles and Ford. As important loyalist symbols a commentary is provided on their historical development. These examples demonstrate the enduring strength of inequalities in engineering and manufacturing and the overt resistance to equality of opportunity by employers, workers and their trade unions. They also show that the British government failed to provide effective direction, leadership or utilise its financial power to promote equality of opportunity in the very firms associated with the historical and contemporary promotion of militant sectarianism. As a consequence it is argued the responsibilities advocated by the *Cameron Report* and the duties of good government towards its citizens were abrogated by government. Britain's "moral agenda" was rejected. We will begin with one of Belfast's most potent loyalist symbols, Harland and Wolff, or "the yard", as it is more commonly known.

"This We Will Maintain"¹.

Harland and Wolff (H&W) has for generations been a source of Protestant strength, unity and patronage. Its two giant yellow "Goliath", Krupp gantry cranes dominate Belfast's landscape. Previously held to be symbols of pride and domination they now represent uncertainty and economic insecurity. The shipyards at their post war peak in 1952 employed 24,350. Prior to privatisation in March 1989 it was a wholly owned government enterprise. Public subventions were high. In 1980 for example the Public Accounts Committee estimated that the average cost of sustaining jobs was £17,900 per annum.² By 1988, taking into account a then average inflation rate of 7%, the real cost was almost £28,000. In 1999, it posted profits of £5m, its first in 20 years, under the Norwegian owner Fred Olsen. However by March 2000 numbers had fallen to around 1745 and by February 2001 its workforce was down to 500 on a three day week having lost £26m. Without an

¹ This is a general loyalist refrain printed on banners, slogans and graffiti around NI. It encapsulates the desire to maintain loyalist dominance and maintain the sectarian status quo.

² *Public Accounts Report*, HMSO 1980 London. The £28,000 is the authors estimate.

order in October 2000 for two British naval vessels it would have closed. Trade unions claim the owner was more interested in the development of the yards 300 acre site than shipbuilding as it seeks planning permission to create a £400m science and leisure park on the land it leases.³ A brief history will aid comprehension as to the yards' significance as a bastion of Protestantism. This in turn underpins the scale of failure by successive governments to challenge sectarian employment patterns and recruitment practices in the yard. For it was precisely in such companies that nationalists expected tangible changes to be made. Indeed the failure to achieve this became a self-evident truism for nationalists that Britain's agenda was a unionist one.

In 1858, Edward Harland from Glasgow and Wilhelm Wolff purchased an existing shipbuilders to establish Harland and Wolff. Both became unionist MP's. By 1866, they employed 3000, 224 were Catholics. These were primarily general labourers. Earlier in 1864 the skilled shipwrights led armed attacks on Catholics, axing one, Neal Fagan to death in front of a large force of the RIC and British troops. When Gladstone, the British Prime Minister, introduced the first Home Rule Bill, further violent attacks led to the death of Seamus Curran, a Catholic navvy in June 1866. On Saturday August 7th, after the Bill was defeated, all the Catholics were driven from the yard. A Catholic delegation to Harland seeking to have the yard closed until the attacks ceased was dismissed as "preposterous". During the centenary of the United Irishmen in 1898, 700 Catholics were expelled from Belfast's linen mills and shipyards. By 1911, Harland's and Workman, Clark & Co., the second largest shipbuilder, together employed 518 Catholics in a workforce of 6,809.⁴

Catholic's tenure in these areas remained precarious. The 1912 Home Rule crisis saw a succession of attacks. Brutal pogroms occurred in July 1920 and spread to other engineering firms. One estimate suggested 8000 to 11000 were forced out of which at least 1225 had been soldiers in the Great War.⁵ A boycott by the Dublin based Trades Union Congress was ignored. During the mid-30' as unemployment grew so did the level of riots and sectarian attacks. NI's Prime Minister, James Craig, encouraged Protestants not to

³ Press reports, *The Guardian*, 10th, 11th March 2000; 6th February 2001.

⁴ See Bardon, Jonathan. *Belfast An Illustrated History*, pp.126-132, 149-150, Blackstaff Press, 1982; Downing, Taylor. (ed) *The Troubles*, Thames MacDonalld 1980, for a general picture.

employ, "disloyalists", as this "is prejudicial to the state and takes jobs away from loyalists". Attacks continued at times of tension and celebration. At the time of the George V Jubilee in 1935 over 200 Catholics were driven from the yards.

Although the 2nd World War saw a brief resurgence with the yard building over 200 ships for the navy and merchant vessels its decline had begun. The 1971 Census indicated that about 9,654 workers remained engaged in shipbuilding activities. Approximately 460 were Catholic. By 1982 this was less than 150. The intensification of the sectarian murder campaigns during the 1970's accompanied by brutal tortures and intimidation left only those Catholics who had effectively concealed their religion (see Chapter 7). In 1971 workers from Shorts and the yard led demonstrations calling for internment and participated en masse in neo-fascist rallies at East Belfast's Victoria park where former Stormont Home Affairs Minister, Bill Craig offered to lead them into the "final offensive" against nationalists. His Vanguard movement laid the groundwork for the creation of the UDA, a strengthened UVF, and a myriad of other loyalist groups such as TARA. Many members worked in the yard or Shorts, where illicit weapons were manufactured. In an interview on Channel 4's "the Protestants" with the now Lord Gus McDonald, a former chairman of the Boilermakers Society from the shipyard saw no contradiction in describing himself as a staunch trade unionist while simultaneously promising, if called upon, to lead a scorched earth policy against nationalist areas to resolve the "problem once and for all", until their "national aspirations were extinguished".⁶

Under Direct Rule in 1972, a £35m expansion plan was announced to enable the yard to build oil tankers. With the collapse of this market it became a wholly owned state company in 1975. In 1976 the Fair Employment Act became law and the shipyard became the 219th firm to sign its equality of opportunity Declaration.⁷

A Fresh Start?

As the yard continued to lose millions, Jim Prior MP, Secretary of State, approached John

⁵ Hassan Father John, *Facts and Figures of the Belfast Pogrom*, Belfast, op.cit. Andrew Boyd, 'Sad Saga of Bigotry at Work'. *Irish News*, 1st September 1986, *Republican News*, 'Harland & Wolff – A Bastion of Sectarian Privilege', 30th October 1986.

⁶ Channel 4, British Television, "The Protestants", with Gus McDonald, May, 1984.

⁷ In 1977 the FEA began an enquiry which would last six years into employment patterns in the yard. cf.

Parker, a senior figure in British Ships to take over. Parker had started his apprentice as a naval architect in the yard in 1958. He returned in February 1983, in time to record a £26m loss for that financial year. A rationalisation programme that made 1700 men redundant did not prevent a £42.8m loss for 1983-84. The search for contracts led Parker to the offices of New Orleans ship owners, Lykes Brothers. Two years of negotiations produced a letter of intent for £55m (\$72m) for two automated containerships. This in turn however provided an opening for the Irish American lobby to level charges of discrimination.⁸

Another untimely mishap was the recording of discrimination by an unnamed trade union against a "Roman Catholic Tradesman", in the FEA's seventh annual report for 1982-83. The company was the shipyard; the trade union, the General and Municipal Boilermakers and Allied Trade Union (GMBATU) which operated a closed shop agreement. The individual was a registered union member who had been seeking employment in the red-leading department for over two years.⁹ A third event that focused much public attention on the yard was the first MOD contract since 1971 to build a floating £60m port and road for the Falklands/Malvinas in October 1983.

Lyke's letter of intent included an option to buy four more ships worth £100m. On the 12th April 1984 the Irish National Caucus (INC), launched its campaign to prevent US dollars finance discrimination in the yard. They demanded large numbers of Catholic apprentices and adults be hired; a training school be set up in West Belfast as originally promised by Ministers in 1974; adequate security be provided and all "offensive and sectarian emblems and slogans" be removed. In meetings with Lykes the INC urged him "to use your bargaining position to help alleviate at least some of the Catholic grievances against Harland and Wolff".¹⁰ Lykes sought a reply from Parker on 19th April. Before replying in a closely typed confidential letter on the 8th June 1984, Parker played the FEA card.

Parker made a public statement claiming Harland's was an equal opportunity employer

FEA In Action, Chapter 7.

⁸ Northern Ireland Office *Press Releases*, 27th March 1984 and *Sunday Times*, 1st April 1984.

⁹ Fair Employment Agency (NI) *Seventh Annual Report*, 1 April 1982 to 31 March 1983, HMSO Belfast, 8th February 1984.

¹⁰ Irish National Caucus *records of exchanges* with W.J. Amoss President, Lykes Brothers, New Orleans and INC *Harland and Wolff: A Case Study in Anti-Catholic Discrimination*, 12th April 1984, Washington, USA, and Graham, D. 'Shipyard contract may founder on discrimination', *New Statesman*, 1st June 1984.

fully endorsed by the FEA. Cooper supported this adding management had "accepted the necessity to recruit more Catholics". Lykes sought proof demanding Parker "supply information to show that his company is absolutely against discrimination". Parker declined to provide details as "I do not think it would serve any useful purpose to throw around statistics" and asserted "in the last decade (and possibly earlier) there has been a positive company policy to afford equal opportunity of employment to all persuasions in the Province." Usually under such circumstances employers seek to prove their credentials by providing information on the companies special education programmes, formal trade union and employer equality agreements or declarations or targeted training and recruitment initiatives. Parker was unable to do this and instead said, "we do not as a Management know the religion of our employees".¹¹ Andrew Davis, legal officer at the English headquarters of the GMBATU, confirmed Harlands had done nothing. He said, "Our feeling is that there are a lot of people doing little more than paying lip service to equal opportunity but I don't think there is a lot of evidence to suggest that Catholics are a lot better of than they were in 1968".¹²

Parker concluded by advising Lykes, Catholics, "work without fear or hindrance, being fully accepted and acceptable members of the work community ... you will appreciate I cannot force anyone to apply for a job." He ended on a personal note, "At the end of the day Jim you must judge if we are the type of management that would honour the commitment entered into with the Fair Employment Agency".¹³

In the end the Lykes order went to Japan in September 1984 as Parker took on another contract with BP worth £75m. The yard claimed "this precluded the building of the containership for Lykes", as delivery dates could not be met.¹⁴ A licence agreement was signed with Mechanical Systems Inc., Houston Texas, to make the Sea King Crane in September 1984, representing a breakthrough into the American markets.¹⁵ The Irish National Caucus had demonstrated their intent to confront any American contract negotiations with a powerful institutional investors lobby.

¹¹ *Correspondence* between Lykes and John Parker, 19th April 1984, and 8th June 1984 from Parker to W.J.Amoss.

¹² *Irish News*, 20th June 1984.

¹³ Parker to Lykes *Correspondence*, 8th June 1984.

¹⁴ *Belfast Telegraph*, 8th September 1984.

GMBATU's closed shop agreement required that unemployed union men be selected from its list before non-union applicants. The investigation by the FEA had discovered that the local convenor and shop stewards had contrived over a two year period to ensure an unemployed Catholic member registered on the union's books didn't get a job. Over 105 men, including 60 non-union members, were hired over this period. Union officials attempted to conceal their actions by ripping out pages of the "Unemployed Book" and re-writing other pages to give the impression the man had not signed regularly. The English headquarters adopted a tough stance against local members as the union accepted discrimination had occurred and made an out of court settlement of £10,000. Andrew Davis pointedly criticised the "lip service paid to equal opportunity" by the employer and commented "it wasn't entirely our fault, we carried the can". At a special conference in Belfast on 26th September 1984, Davis announced the scrapping of the "unemployed list" and demanded pressure be put on "companies like Harland and Wolff with overwhelming Protestant workforces to ensure they too review their practices".¹⁶ The trade unions most senior official in NI was Tom Douglas, a Fair Employment Agency Board member.

Despite GMBATU's exhortations and support for trade union principles of equity yard men continued to demonstrate their mettle. The normal July 12th parades with bands took place in the yard. The *Irish News* reported nationalist allegations that the UVF controlled recruitment of all staggers and the machine shop remained a 'no go' area for Catholics. On the signing of the 1985 Anglo-Irish Agreement, men from the yard were to the fore of loyalist protests. They blocked main roads into Belfast as part of the loyalist Day of Action and led by the DUP marched on the offices housing the Agreements secretariat near Holywood. They threatened to set up an Ulster TUC, and generally exercised their traditional role as a Protestant shock force. The comments of then Grand Master of the Orange Order and unionist MP, the Rev. Martin Smyth, much earlier appropriately describe the loyalist ethos that motivates such actions. He stated "many loyalists will not trust Roman Catholics, they will be loath to employ them, work with them, or live with them".¹⁷

¹⁵ *NIO and Belfast Telegraph* 20th September 1984.

¹⁶ In January 1983, the brother of the man at the centre of this dispute had been critically stabbed by a Protestant workmate in the red-leader section. His attacker was convicted of attempted murder and sentenced to 12 years. He was released in June 1984 on grounds of ill-health, and died of cancer in 1986.

¹⁷ *The Battle for N. Ireland*, Orange Order, 1972, Belfast.

The Orangeman's Dole?

The commonly held nationalist perception and experience was that the shipyard was a place that offered privileged employment for generations of Protestants. Under Direct Rule successive governments provided significant financial support in the face of massive losses while other yards in Britain on the Clydeside, Teesside and Tyneside, went under. Between 1972-79 over £103m was given in grants while annual losses of £35m were soaked up by the public purse. Additional subsidies were contained on work carried out of up to 35%. As a whole the yard took on average 1.3% of the total budget for NI which was £5140m for 1988-89.¹⁸ During 1983-85 Parker sought to reduce losses by cutting overheads, selling land and reducing the workforce by 1200. In 1986 the industry minister increased the grant to £68m to cover trading losses and 800 redundancies. He said that between 1976-86 the yard "had received £340m in government funding plus the additional £37m necessary in this financial year".¹⁹

In January 1989, further job losses of 470 were confirmed bringing employment to the lowest in the yard's history, at 2,880.²⁰ For the financial year ending March 1987, the yards losses ran to £75.6m. The government responded by increasing its grant to £58.6m from £30m. This represented 26% of total gross resources for industrial development. As former Secretary of State Jim Prior said on the launch of a bulk carrier in 1984, "The relationship between Government and Harland and Wolff is unusually close. This reflects not just the usual relationship between a company and its shareholders, it springs also from the special place which the Yard occupies in the hearts of people in Northern Ireland. It goes well beyond the economic importance of the place which we can measure in terms of employment, direct and indirect - vital though that is. This is no ordinary shipyard."²¹

It was ironic that one service yard men did provide for Catholics, was the construction of the huge box-girders spans for Derry's new Foyle Bridge. This cost £27m. The Commons Public Accounts Committee lambasted the project saying "We have the gravest doubts about the cost effectiveness of this expenditure". It was established the existing bridge

¹⁸ Minister for Industry for NI, *NIO*, 25th November 1986.

¹⁹ *NIO* 25th November 1986.

²⁰ In 1985, 5000 were employed representing 6% of the North's manufacturing workforce. At its height during the war years direct employment reached 30,000. During the 1960's it was 11,000.

²¹ *NIO* 13th March 1984.

only operated at a 45% capacity and no reliable transport surveys to justify a new bridge had been carried out. A fee of £1.1m for consultants was deemed unnecessary and highly questionable. As government double funding of the shipyard continued other British yards finally expressed their exasperation publicly. The privatised Swan Hunter accused the government of simply buying off shipyard men to cool loyalist opposition to the Anglo-Irish Agreement. Swan Hunter declared, "while we recognise the need for harmony in N.Ireland, we do not see why Newcastle (Upon Tyne) should be sacrificed on the alter of Belfast."²² When the yard was offered another MOD contract to build an Auxiliary Oil Replenishment ship, Labour's MP for the Northeast angrily retorted "The government has surrendered to political terrorism (loyalist)". Rhetoric aside, British Shipbuilders announced in May 1986 plans to close three of their six yards and axe 3495 jobs. Another 1500 went in 1991 at its Vickers yard. As the Economist magazine had commented 1980, hand-outs to the yard, "is almost entirely a subsidy to militant Protestant workers in an industry that is anyway bound to die".²³

Parliament's National Audit Office in July 1992 criticised the government for placing this order that was delivered three years late and £70m over budget. The yards original bid of £122m was much lower than Swan Hunter and was accepted despite Ministry of Defence rules that contracts should not be awarded to yards where delays already existed in fulfilling current orders. In addition the yard was supposed to deliver a ship capable of defending itself. Over £200m later a defenceless oil tanker went on sea trials in the Irish Sea and was not delivered until 1998. This was despite the fact that following privatisation in 1989 another £73m had been granted to complete the project. Labour MP, Nick Brown, for Newcastle upon Tyne East said, "The ship ought to be called HMS Delorean not Fort Victoria". While calling for a formal enquiry he added, "It seems to me that the money was spent on appeasing terrorism by keeping Protestant jobs in a Belfast yard rather than accepting a realistic bid".²⁴ During May 1993 the receivers were called into Swann Hunter whose collapse the company claimed was due to the MOD not paying bills and awarding major contracts elsewhere, such as Harland's and more recently Yarrow on the Clyde. An 120 year shipbuilding tradition came to a painful close the remaining 2,200 workers faced redundancy. When Swan Hunter had been privatised in 1986 it employed 4,500.

²² *The Guardian*, 23rd March 1986.

²³ *Irish News*, Swan Hunter shipyards, 23rd March 1986, 24th March 1986.

²⁴ Nick Brown MP, 17th July 1992.

At the end of 1988 the government announced a cash injection of £1.2 billion to ensure a successful privatisation.²⁵ This included £400m to write off debts, pay redundancies and meet restructuring costs. A Commons Select Committee estimated grants worth £530m had been given since 1975. As part of the agreed management buy out workers were required to subscribe £2.35m. Although this was a condition of the buy out, it was waived as merchant bankers made up the shortfall of over £1m. In February 1990, an All Party Commons select defence committee, accused the government of sharp practice and subterfuge on the deal. "A bizarre fiscal gavotte", were their words. They claimed that what happened was that an extra £22.5m was paid for an MOD ship when MOD lawyers had confirmed only £5m was due. The committee concluded, "The evidence before us suggests that a subterfuge has been attempted upon Parliament".²⁶

Perhaps as some form of footnote on the affair, the IRA in September 1990 planted a bomb which damaged the engine room of the Royal Fleet Auxiliary supply vessel, Fort Victoria, which was nearing completion. It has been argued that the British government failed to intervene strategically to effect a structural shift in sectarian employment patterns. When it did intervene as with the yard it was to prop up an industry wholly associated with Protestant domination and sectarianism without securing any gain in promoting equality of access to employment or change to the loyalist working environment. This pattern was repeated at Shorts Bros.

Shorts.

Shorts was founded in 1901 to make aerial balloons on the Isle of Sheppey, Kent. Attracted under the early industry development grants it began life in 1937 and employed 6,273 locating along Belfast harbour adjacent to Harland's it linked up to form its Belfast subsidiary. It also had plants in other strongly loyalist areas such as Castlereagh in East Belfast, Newtownards and Crossgar in County Down and Maghaberry in County Antrim. During the war it made Sunderland flying boat and Stirling bombers. After this it went into a long recession and would have closed but for government grants. Between 1967-83,

²⁵ *NIO*, 23rd February 1989.

²⁶ Second Report of the Defence Committee, *Payment to Harland and Wolff plc*; HMSO, London, 20th February, 1990.

over £45m was lost and 1000 redundancies made. By 1983 Shorts employed 6,300. In 1967 the company decided to reorganise and broaden its production base by restructuring into a small aircraft division, the Skyvan, missile systems and airframe sub-contract work. The Skyvan and variations proved successful with for example over £100m in receipts for 150 planes in 1983. As the military versions of the Sherpa variation proved attractive to the United States Air Force (USAF) Shorts entered the Irish American arena as it bid for a £65m contract.²⁷

Its former chairman Philip Foreman, managing director since 1967, then chairman from 1983 until he resigned in 1989 was knighted in 1981. He first joined the company in 1958 and would later play a significant role in impeding progress on equal opportunities within Shorts (see below). Short's horizons stretched far beyond Belfast harbour as it supplied at least 18 US airliners, the US and other foreign militaries, with sales in over 15 countries. More than 16 armed forces utilised its blowpipe missile technology. In terms of the British aerospace industry then, Shorts is an important player on an international stage.

Within this context allegations of discrimination in the plant became an acute embarrassment for the British government in Washington when Shorts was bidding for contracts in the US. The management response at Short's was not untypical in denying a problem existed. For example at a meeting in 1978, with FEA officials the personnel manager Mr. Cockram claimed, "religious belief was irrelevant", and "the Catholic members of the workforce were in no way harassed by their Protestant work-mates". Shorts asserted management "would not allow any sectarianism" and were unaware of any religious bias or intolerance in the plant.²⁸

Contact with Catholic schools was considered "a waste of time", as most of the 100 annual intake of apprentices were drawn from local Protestant schools. In 1977, 800 workers were recruited with 2000 out of 5000 applicants interviewed. The numbers of Catholics did not change. Shorts claimed in 1978, "advertising for recruitment was rare", as recruits were generally drawn from within the company's "family tradition".²⁹ They refused to publicly endorse any equal opportunity declaration. Shorts did finally accede to

²⁷ NIO, 9th March 1983, *News Letter* Industrial Review, December 1983, *Belfast Telegraph*, 9th January 1983.

²⁸ Mr. Cockram, Shorts Bros., to Peter Sefton Co-ordinating Director, FEA, 1978.

this in 1981 in order to deflect intense criticism in the US that was placing a USAF contract in jeopardy. It was in the US that a major political storm broke over Shorts at the end of February 1983.

Shorts in the USA.

A group of Congressmen led by Mario Biaggi, and the Irish National Caucus (INC) mounted a sustained campaign against Shorts in 1983. They charged Shorts with a history of overt sectarianism and intimidation against Catholics. In response the NIO gave a commitment Shorts would open a plant on the site of the abandoned De Lorean factory where Catholics had ready access on one side due to its geographic location if a contract were awarded. The Americans were led to believe this would create 200 jobs. During this period Shorts secured orders worth £11.5m from American companies and announced 300 new jobs. It also opened Belfast, Sydenham airport for commercial commuter services and government increased aid by £12m. The INC circulated details on Shorts employment composition which indicated the company was 95% Protestant, to 10,000 members of Congress. Among the 980 fitters for example, 53 were Catholic.³⁰ The men from Shorts also featured prominently at loyalist protests. The ethos at Shorts was expressed in the range of loyalist insignia adorning the plant and at the annual prize giving ceremony when the British Anthem was played. As the INC's campaign took effect, 27 Congress members formally protested against any order going to Shorts and supported a boycott of its products.

The NIO and BIO responded with the help of the NIC (ICTU), local trade unions and the FEA. They were also helped by the purchase of an aircraft by Dublin based Avair airline. The NIO/BIO declared, "if the Irish can buy why not the US"? The joint Shop Stewards Works Committee representing the shipyard and engineering unions provided Foreman with a letter for this Atlantic tussle. Dated 13th April 1983, it:

"unequivocally state(s) the following -As a Trade Union principle we would not now, or historically permit Shorts or any other company in our jurisdiction to operate Religious, Sexual or Trade Union discrimination".

²⁹ Ibid.

³⁰ Shorts to FEA, 25th January, 1980.

The signatories from the Works Committee included those who had been highly active in the loyalist UWC strike that ended an attempt to share power with moderate nationalists. The secretary, Harry Patterson had been vice chairman of the UWC. The letter opposed religious monitoring and concluded, "As Trade Unionists we would finally state that we reject all acts of discrimination no matter where or how the practise is demonstrated".³¹ In another letter to the NIC (ICTU) on the 9th May, Patterson asked they formally endorse this statement as:

"This matter is of the utmost urgency for Shorts and the workforce in general, as we are tendering for a lucrative contract in America which would keep a balanced labour force for the next two years or more".³²

The BIO's wide circulation of the Works Committee letter rebounded when the militant loyalist activities of Patterson and others were exposed by the INC. Another faux pas by the BIO in May, was an article in *Aviation Week and Space Technology*. The BIO informed the American magazine:

"Short Brothers is located in a Protestant area of Belfast. Its chairman and managing director, Sir Philip Foreman, in an intensive search for Catholic skilled workers once walked door to door in the Catholic Bogside area of Belfast offering jobs".

The Bogside is in Derry, some 80 miles away. There was no proof presented during a long FEA enquiry by Shorts that its chairman had either walked around Belfast or Derry in such an endeavour nor were there any reports of gainful employment opportunities secured.³³ The then British Ambassador in Washington, Sir Oliver Wright, formerly a senior member of MI5 in the North, took the unprecedented step of issuing an 11 page document to every member of Congress and key opinion maker on the 10th May 1983. His objective was "to set the record straight". He claimed Shorts was "fully committed", to equal opportunities and this "has been reaffirmed on a number of occasions over many years". The support of the trade unions and the FEA were cited. It claimed Shorts are operating an "Affirmative action programme agreed with the FEA to encourage more Catholics to seek employment with the company". The sum of this agreement with the FEA in 1983 was simply to

³¹ Statement by Joint Shop Stewards Works Committee, Shorts, 13th April 1983 to Philip Foreman, Shorts Chairman.

³² Patterson H to T.Gillen, NIC (ICTU), 9th May, 1983 following telephone call and letter of 6th May from T.Gillen.

³³ *Aviation Week and Space Technology*, USA, 16th May 1983.

"advertise in the Catholic newspapers," i.e. the Belfast based *Irish News*.³⁴

The BIO correspondence used terminology rather subtly. For example the term "affirmative action" and phrase "to encourage more Catholics to apply", would imply to an American audience that some form of proactive equality programme was in place and that the matter was not a current one but one where changes had been already achieved for Catholic employees. A trump card however was the contract with Aer Lingus. Shorts marketing director, Mr. Roberts, would later confirm in the local press these purchases proved invaluable in the USAF bid. Given the storm of public controversy, in Ireland and abroad, republicans accused Aer Lingus, an Irish state owned company, of being instructed to assist Shorts, as part of the Irish governments strategy to establish its credentials with unionists. In return Aer Lingus did receive a sub-contract to paint Shorts planes. Wright enclosed as supporting evidence the trade union statement, a copy of the FEA equal opportunity certificate dated 23rd March 1979 and a copy of Shorts "*Programme of Actions to Ensure Equality of Opportunity in Shorts*". The latter document was remarkable in the extreme. Over the six year period of the FEA investigation into Shorts (cf. below), the existence of such an important document had never been discovered or referred to by Short's management. Its 14 points alleged to record "Action programmes", to "ensure equality of opportunity", such as visits to Catholic schools, youth organisations, advertising widely, etc., over a 15 year period.³⁵

During June 1983 the Works Committee lobbied the NIC (ICTU) to get a "statement of denial" that discrimination took place in Shorts. The FEA's chairman assisted by writing a supporting letter to the NIC. No specific positive action programmes that included specific goals and programmes to correct inequality were imposed. No steps were taken to remove the display of intimidating loyalist symbols, end loyalist parades or protect Catholics in the plants from para-military threats. Catholics were however to be invited to the prize giving day. Cooper advised the NIC these "contacts with Catholic schools etc. should go a long way to eliminate past practices which militated against equality of opportunity".³⁶

³⁴ Sir Oliver Wright, British Ambassador to US Congress members, British Embassy, Washington, 10th May 1983.

³⁵ Author's comments based on personal involvement and copies of correspondence between NIC (ICTU) and Joint Shop Stewards Works Committee which show the document was drafted between 10th and 24th June 1983. The FEA chair, Cooper informed the AFL/CIO the agreement was made in April 1983.

³⁶ Cooper, R. FEA, 28th June, 1983.

Inez McCormack, regional organiser for NUPE, NIC member and a former Agency board member, later commented publicly on the affair. She stated:

"Shorts anxiety to get the US order gave the FEA the best opportunity they will ever have to persuade both management and workers to accept a real affirmative action programme. They seem to have thrown it away".³⁷

The American AFLCIO trade union body decided to embark on a fact-finding tour in July so that they could determine their position independently. The Secretary of State, James Prior, Cooper, Foreman, various religious figures and leaders of the political parties in the South all met the delegation to lobby and discuss Shorts. Aer Lingus distributed a letter they had written to the INC. It stated "We are satisfied that there is no religious discrimination in the recruitment of employment practices of Shorts". The US Deputy Under Secretary for Defence replied to Senators enquiries on the contract by repeating verbatim Wright's correspondence. No one however was able to explain why out of 18 apprentices started in June, only one was Catholic.³⁸

As the AFLCIO delegation arrived the NIC published Short's "Affirmative Action", programme which Wright claimed already existed in May. The NIC expected the AFLCIO delegation would publicly endorse this and support the contract bid. The delegation declined. Instead they said the AFLCIO would only be satisfied when more Catholics were recruited. A dinner with Prior, Cooper and Foreman left them unimpressed. Charles Haughey, then in opposition, urged them in a private meeting to support Shorts as did then premiere Garret Fitzgerald and his ministers. On their return to the States, a report was submitted to their executive in August.³⁹

The AFLCIO adopted a firm stance. Stress was laid upon the "responsibility on every purchaser, an individual or a government to inquire into the conditions under which the product is produced". Protestations by the USAF and defence department that current procurement procedures and contracts excluded foreign suppliers were rejected,

³⁷ McCormack, Inez. NUPE, op.cit. Farrell, M. & Graham, D. *Sunday Tribune*, Dublin, 19th February 1984, 'Why the North's Job Agency Cannot Give a Fair Deal'.

³⁸ Doherty, Pat. New York City Comptrollers' Office to author 1983.

³⁹ Authors conversation with New York Comptrollers Office, Pat Doherty, Special Investment representative, August 1983.

"at least with respect to minimal fair employment conditions. We believe that AFL/CIO should consistently urge such a policy upon the US government and we believe that in the case of Shorts Brothers some assurances of non discriminatory employment, beyond those offered by the Fair Employment Agency of the United Kingdom are in order the statistics strongly indicate a pattern of past discrimination and strong affirmative action policy is called for to begin to redress the imbalance".⁴⁰

A telling comment compared the 'explanations' offered as extremely similar to discussions in the US during the late 1950's and early 1960's. They concluded,

"If the discriminatory patterns of employment are ever to be redressed, the full range of anti-discrimination measures undertaken in the United States will have to be developed by the employers in Northern Ireland, by the Fair Employment Agency and by Unions of Northern Ireland".

Without "forceful and forthright", action against discrimination they considered there was little hope, "for a reduction in violence or for the development of attitudes which will bring about a stable society".⁴¹ They also gave their support to a draft bill before Congress that urged US firms should not be permitted to invest in companies operating in the North that discriminated. In response the NIO organised and paid for local politicians from the SDLP and unionist party, business men and advisors to go on a US tour to drum up support. According to the Comptroller's Office American Senators were in turn invited along with their families to visit Britain and NI fully funded by the NIO on "fact finding tours". Their starting point could be anywhere in Europe. In August a delegation from the Irish National Caucus and US Congress members, Biaggio and Bob Blancato, met with the FEA and Shorts separately. The Congressmen left "unconvinced the company had taken all the necessary steps to alleviate concern that they are practising discrimination". They expressed criticism of the "semantic discussion" with Shorts which declined to concede any acts of discrimination, past or present.⁴² All this activity may be understood when it is appreciated the closing date for the USAF bid was 5th August and Shorts was competing against 20 others.

The BIO in Washington hired a major public relations company to present Shorts case; it

⁴⁰ AFL/CIO *Report on Visit to NI and Republic of Ireland* (July 1983), *AFL/CIO Executive Report*, 8/9th August 1983, and Farrell, M. *Sunday Tribune*, Dublin 24th July 1983, 'Fate of £50m order hinges on religion of Shorts apprentices'.

⁴¹ *AFL/CIO Report*, August 1983.

⁴² US Congress Members and INC press reports, *Irish News*, *Belfast Telegraph*, 16th –18th August 1983.

was reported Mrs. Thatcher took matters up personally with Reagan; local trade union leaders, FEA board members and politicians were sent to America to lobby for support. The FEA reported that over the last six months of 1983, Shorts recruited 222 employees. 187 were Protestant, 34 Catholic. The FEA described this as a "very substantial improvement". However when the occupations recruited were examined the average ratio between Protestants and Catholics varied from three to nine times, e.g. riveters, 51 to 6; electricians, 45 to 5; technicians 25 to 8, and so on.⁴³ On the 8th December 1983 the US Department of the Air Force concluded "employees who were not recruited within the United States," fell outside its equal opportunity contract clauses. The Secretary therefore did not feel "authorised to verify", practices in other countries and in closing advised Congress members, Shorts, "possesses an Equal Opportunity Certificate".⁴⁴ In February 1984 the FEA attempted to bolster Shorts image by convening a meeting between Catholic school principals and Shorts that included former Agency member and careers teacher, Des Bannon's school. He condemned the meeting as a "political move" designed simply to enhance Shorts position in the US.⁴⁵ Foreman asserted, "It is not a question of not wanting to employ them. Our problem is to get Catholics to apply for jobs".⁴⁶

The Ides of March.

This intense activity began to bear fruit. On the 2nd March 1984 Shorts announced they had won the contract with a potential worth of £460m if the USAF took up its options. Foreman acknowledged the "Fair Employment Agency report", played a key role along with "enormous support from a lot of unexpected quarters", whom he did not wish to name "because they would not want me to".⁴⁷ They included John Hume, leader of the SDLP, the Irish premier and opposition leader, Aer Lingus, the ICTU NIC and senior church figures. Shorts estimated the order would create 600 jobs. A spokesman indicated "It's not clear whether the jobs will be advertised or filled from the applications file".⁴⁸ The practice of banking files that was part of the "family tradition" at Shorts is a practice wholly at odds with the most basic of equal opportunity practices and within the context of

⁴³ FEA statement on Shorts, *Irish Times*, 1st and 2nd July 1983. Analysis of figures by author.

⁴⁴ Department of USAF, 8th December 1983, *Report*, D.A.R. 7-103.18; 12-808 [b].

⁴⁵ Des Bannon's comments to author.

⁴⁶ Media interview and reports.

⁴⁷ *Irish News, Newsletter, Belfast Telegraph*, 3rd, 4th March 1984.

Shorts guaranteed to ensure opportunities primarily for Protestants. On top of this the shipyard, simultaneously announced an order from the MOD worth £30m which would sustain 1000 jobs until 1986. This was its first MOD order in fifteen years.

While the combined orders left Protestant East Belfast, “dizzy with success”, there were no corresponding pints of cheer for Catholic West Belfast. As Inez McCormack said in the *Sunday Tribune* with reference to Shorts and the civil service:

"The Agency can no longer claim to be independent of government and employers. It has been used by those who have power to effect change as a political excuse for not doing so. By letting employers feel that it can be used to say that there is no problem here, the Agency itself has become part of the problem".⁴⁹

One goal that continued to elude Shorts was the ability to make a profit. Although orders secured in March were valued at £150m from the USAF and others such as British Midland and Jordan's armed forces, Shorts continued to report operating losses in excess of £19m. Nevertheless the British government announced a "reversion to private ownership in due course".⁵⁰ Shorts was given permission to enter into a variety of financial deals in preparation for this with American, British and European banks. Attempts by Irish-Americans to force the British to honour their pledge to oblige Shorts to open a unit on the De Lorean site were met with hostility by Unionists in 1984.

When unionists discovered preliminary discussions had taken place with the IDB to secure a site for an ancillary unit on the De Lorean plant, the move was roundly condemned. The DUP deputy leader, Peter Robinson MP predicted "another politically motivated commercial failure", describing the proposal as "purely sectarian" and a "political sop". Foreman claimed 200 jobs might be created.⁵¹ In March 1985, Michael Heseltine MP then Defence Secretary, accepted a joint bid from Shorts and Embear of Brazil for the Tucano trainer. This was worth potentially £125m and 1,200 jobs. British Aerospace Managing director, Sir Raymond Lygo said Foreman, "has exploited the political factors to maximum advantage". Politics however began to catch up with Shorts fortunes. In June 1985 it became known that senior directors were refusing to endorse any move to West

⁴⁸ Shorts press comment, *Irish News* report, 5th March, 1984.

⁴⁹ *Sunday Tribune*, Dublin 19th December 1984.

⁵⁰ *NIO*, 26th April 1984.

⁵¹ Local press and media *Irish News*, *Belfast Telegraph*, 24,25,26,27,28th June, 1984. Peter Robinson MP quoted in *Belfast Telegraph* report, 26th June 1984. This row continued into 1987.

Belfast and only the necessity to appease US opinion was keeping the scheme alive. Applicants interviewed had been told to expect to start work in the summer. The SDLP now changed its position from one of open support, to alleging Shorts had been acting in bad faith by "simply making the right noises to ward off American criticism and secure US contracts".⁵² The SDLP also drew attention to the treatment of two Catholic schoolgirls who had been interviewed for jobs in 1984. Although advised of their success they were still without a job. When New York's then Comptroller, Harrison Goldin, whose office was playing a significant role in the anti-discrimination lobby, arrived in June to investigate progress, Foreman made a sudden announcement that an agreement had been reached with the IDB. He "totally rejected", suggestions he had delayed progress while seeking to abandon the plan.⁵³

In July as the Orange marching season intensified loyalist flags, para-military slogans and posters, dominated every work area with loyalist bands parading through the factory. Intimidation was reported as particularly intense around the aircraft assembly building where about 50 Catholics worked. One Catholic worker reported that a band and about 200 loyalist workers had marched through the building and around the aircraft where they worked. He stated "the management never even tried to stop them, it was mob rule. We had no protection. Security did not even come down while the band was here".⁵⁴ Management, internal security and trade unions declined to intervene to prevent acts of intimidation. Shorts did however agree to talk to the senior shop stewards when Catholic workers made statements to the press. These stewards were loyalist activists in the UWC strike. A week after these incidents pictures from within the plant, published by the *Irish News*, showed loyalist displays all over the plant. When damage was caused to three planes unionists immediately alleged this was the work of republicans. Catholic workers claimed this was an attempt to "set them up" for assassination and justify loyalist intimidation and marches. Foreman's public statements exacerbated matters when he claimed Shorts was "actively encouraging people from the minority to work for the company".⁵⁵ As Irish-American pressure intensified Foreman announced changes in "recruitment procedures in furtherance of the Company's Equal Opportunity Employment

⁵² *Irish News*, Brian Feeney, SDLP Councillor, 6th June 1985.

⁵³ Shorts announcement was reported on 14th June 1985, *Irish News*, and Foreman's comments on 26th June 1985, *Irish News* in response to charges insufficient Catholics were being recruited.

⁵⁴ *Irish News*, 5TH July 1985.

⁵⁵ Almost daily press reports, *Irish News*, *Belfast Telegraph*, *Newsletter*, 10th, 11th July 1985.

Policy", in that "any application of a speculative nature", would not be accepted. In other words they would not solely utilise their bank of family friendly applications from existing employees. The SDLP said the initiative only proved the so called "affirmative action programme had failed". A company spokesman later attributed the change to more prosaic reasons. The volume of applications was running at 10,000 a year. They simply couldn't cope. This included, from April to December 1984, 2,649 Catholics and 7,294 Protestants. From these applicants 95 Catholics and 507 Protestants were hired.⁵⁶ Of the 109 apprentices recruited, careers teachers estimated 11 to 13 were Catholic. In an earlier meeting with former Agency member, Des Bannon in 1986, Cooper claimed he could do nothing and suggested Catholic teachers put pressure on Shorts.⁵⁷

Meanwhile the UDA and UVF placed recruitment posters in the factory that depicted men with knapsacks and rifles on manoeuvres. The AUEW passed a factory motion expressing "opposition to opening a subsidiary factory in West Belfast (at the old De Lorean Plant)" and threatened to black components from any new factory.⁵⁸ Shorts 1985 annual report showed the 6,587 workforce received in salaries £71.1m, a massive injection to the local economy. This went primarily to Protestants. By January 1987, only 20 men had been recruited to the old De Lorean site, and not until August did advertisements appear for key staff such as production managers and supervisors. As the workforce joined the "Ulster Says No" campaign, Irish-Americans forced Shorts to issue a warning that unless posters and emblems were removed disciplinary action may be taken. This was ignored by the workforce. The number of displays were increased and a fictitious death notice of the manager saddled with carrying this message posted on factory walls and a local newspaper.⁵⁹

When workers participated in the April Loyalist Day of Action and other protests a few individual managers docked their clocking in cards and removed some of the posters. The Shorts Peoples Loyalist Council responded with more threats and demonstrations and put posters up warning managers the Shorts Peoples' Loyalist Council knew who they were.⁶⁰

⁵⁶ *Irish News* report, 7th November 1985 and 21st December 1985.

⁵⁷ Des Bannon's comment to author.

⁵⁸ The UVF displayed its recruitment posters again in December 1985 as Noraid called for the withdrawal of its FEA certificate in the US. *Irish News*, 24th December 1985.

⁵⁹ 14th November 1985, reported in the press on 15th November 1986.

⁶⁰ *Sunday World*, 16th February 1986. It also reported on Shorts workers defying any flags ban on 12th, & 26th January 1986.

The failure of management to prevent this attracted much public criticism as the feeling spread they had effectively lost control. Despite the protests the MOD placed orders worth £290m. This included orders for Javelin missiles valued at £25m in addition to an export contract for Blowpipe missiles valued at £40m. Another order, the Starstreak High Velocity Missile, was estimated to have a long term export value of £1.5bn. Tom King, then Secretary of State, said this would "provide employment for years to come", for at least 1500 workers.⁶¹

As orders from government, American airlines and others flowed in the uglier side of Shorts rarely left the local headlines. A Catholic female typist was denied employment because she had an address in West Belfast. This decision was confirmed by Tom King MP on behalf of the MOD who exercised a right of veto using a Section 42 certificate.⁶² Nine Catholics had their clocking in cards torn up by the loyalist Shorts peoples Council as a warning to 'republicans'. Posters were put up warning management they must accept responsibility for the safety of Catholics. One notice entitled, "THE PAPISTS INSIDE SHORTS", listed personal details and names of a number of Catholics. It ended:

"The above are only a few of the fenian bastards we have to work with ... laughing when our flags were torn down but most of all laughing at the Stupid Orange bastards who let them work alongside them. From now on anyone found fraternising with taigs will be deemed as wanting them to stay and dictate to, and threaten the lives of Loyalists in Shorts. The aforementioned are advised not to return to Shorts or they and all collaborators will be dealt with".⁶³

As these events were published in the US, Shorts called in the RUC and said "Anyone found guilty of participation in these activities will be dismissed". In a public statement the FEA chair, Cooper appeared to attribute the disturbances to misconceptions created by unionist representatives among Protestant workers that the industry would no longer be dominated by them.⁶⁴ The Orange Order with over 1800 members in Shorts, many of them supervisors and foremen, said any attempt to remove loyalist flags, the Orange Arch, plaques to loyalist paramilitaries and the UVF on and other emblems would produce a mass walk out. When 2000 workers staged a half day strike all threats of disciplinary action were dropped and replaced by a request placed in the workers pay packets to

⁶¹ Tom King MP, Secretary of State for NI, 15th December 1986; Rhodes Boyson MP Minister of State, 16th January 1986, NIO.

⁶² Report in *Andersontown News*, Vol.11, No.57, 1st February 1986., Belfast.

⁶³ Loyalist Notice placed in Shorts workplaces in mid-August 1986.

remove flags and regalia. Foreman's personal statement reassured them, "So that there is no misunderstanding on this issue the Union flag will henceforth be flown every day on our headquarters".⁶⁵ Further protests led to Shorts placing full page notices in the three local daily newspapers, "in order to make the Company's position quite clear to the local community". In heavy bold print, Foreman declared, "There has been no discussion on this matter with the NIO or the FEA, no discussions and no financial or other pressures have been applied to us by Government". Shorts decision was taken "solely for business, not political reasons", and stories "about reverse discrimination by Shorts in favour of Roman Catholics are completely untrue".⁶⁶ The true position was revealed in a debate on fair employment at Westminster two years later. Labour's then opposition spokesperson, Kevin McNamara MP, revealed that Congress had arrived at an agreement with Michael Stone, Under Secretary of the US Army over a \$60m contract for Shorts Sherpa aircraft. Stone had obliged Shorts to agree to spend \$5m of this on subcontractors with predominantly Catholic work forces. Specific employment goals also had to be met. These were 17.5% of new recruits in 1988, 25% in 1989 and 33% in 1990. As McNamara said and Shorts fully appreciated, "United States pressure will not go away. It is here to stay and must be addressed".⁶⁷ Although the US General Accounting office concluded the Sherpa had insufficient air range it renewed options with Shorts for four years. The work force continued to fly close to the wind by demonstrating when Tom King paid a visit in January 1987 by putting up more loyalist regalia.

Another side of Shorts role for Britain was teased out in the US as part of the larger scandal surrounding Oliver North. The Tower Commission on Irangate, indicated a direct collusion between North and Shorts to supply the Contras in Nicaragua with Blowpipe missiles. North's memo in March 1986, confirmed, "The MFGR (manufacturer) of the blowpipe is willing to arrange the deal, conduct the training and even send UK technical reps forward if we can close the arrangement".⁶⁸ A deposit was paid. At this stage the Contras had killed over 1200 Nicaraguans. The *Independent* newspaper provided further revelations in June 1987. British intelligence services collaborated with the CIA to supply 330 Blowpipe missiles to the Afghan Mojahedin. One leader, Abdul Hag, had discussed

⁶⁴ *Guardian* report, 19th August 1986 for both statements.

⁶⁵ *Belfast Telegraph*, 29th August 1986.

⁶⁶ Shorts full page advertisement in all the three major dailies *Irish News*, *Belfast Telegraph*, *Newsletter*, 30th August 1986.

⁶⁷ *Hansard*, Cols., 643-645, 1 July 1988.

the arms supply on a visit to Downing Street in March 1986. An MI5 officer, Peter Preece had acted as go between. The newspaper claimed four senior executives from Shorts were aware of the MI5/CIA operation and given the order a special code number.⁶⁹ The Foreign Secretary, Geoffrey Howe MP replied by expressing astonishment, "anyone should be alarmed or dismayed at the efforts of the Afghan people to defend themselves. They face the might of a vast modern army. Most MP's will thank goodness that modern weapons are getting through".⁷⁰ Apart from registering formal protests, the then Soviet Union confirmed British instructors had been sent to train the Mojahedin in the use of Short's Blowpipes.

In the midst of this militant sectarianism the MOD awarded another contract worth £2m in June 1987. Almost immediately another incident led to a walk out by 3000 workers when a token gesture was made by Shorts to remove some flags. Workers accused Foreman of breaching the agreement made the previous year. Foreman appealed to all workers to let common sense prevail and allow Shorts to demonstrate it "runs a tight ship". Bunting went up on all Shorts plants and pickets brought production to a standstill. Loyalists at Ballylumford power station threatened to come out in support. This would have brought the North's energy supplies to a standstill. Boeing in the US however told Foreman to "get tough", or lose a contract worth £200m to participate in Boeing's new 150 seater aircraft. Foreman had described this as Shorts "ticket to the 21st century".

The factories were closed on the Friday as negotiations took place with the unions, local politicians and the NIO. To ward off pressure from the US, management removed bunting from production areas and returned them to the factory loyalist committee. Flags in other areas remained. Everyone's pride appeared to have been satisfied. To celebrate, 500 workers carrying UDA, UVF and Red hand Commando flags marched around the harbour estate joined by men from the shipyard. Foreman retired in March 1988. In his thirty years at the company Foreman's contribution to equality of opportunity had proved indiscernible.⁷¹

⁶⁸ *Guardian*, 28th February 1987, and 8th July 1987, for British sales to the Mojahedin in Afghanistan.

⁶⁹ *The Independent*, London, June 1987.

⁷⁰ *Hansard*, 26th June, 1987. Press reports include *Irish News*, 19th & 27th June 1987.

⁷¹ Local press reports, *Irish News*, *Belfast Telegraph*, 18th–30th August 1986, and Graham, D. 'Short-lived success?', *New Society*, 5th September 1986.

The government decided to privatise Shorts in 1988. Its losses on the year ending March 1988 were £142.5m on sales of £192m. In February 1989 the government took over £390m of Shorts bank loans as a first step in reducing liabilities to potential buyers. In October the privatisation process was completed by the sale to Bombardier Inc. of Canada for £30m. The Secretary of State confirmed "The Government is prepared to provide substantial funding in order to put the company on a sound financial base".⁷² While Shorts had lost over £200m in the previous two years, the government further committed sums in excess of £780m in write-offs, capital reconstruction and investment. The totals worked out at approximately £111,000 per job for its 7000 work force. The MOD boosted this by placing orders worth £40m in December 1989. An Audit Office report in 1991 revealed the privatisation had cost the taxpayer £300m more than estimated due to the unexpectedly high costs of Shorts past and weak management controls over finance.⁷³

Roy McNulty, the president of Shorts, predicted sales of up to £800m a year, equivalent to profits of around £30m by around 1998, due to work on Fokker jetliners, sales of nacelles for Rolls-Royce engines and work for their Canadian parent.⁷⁴ In addition their ownership of Belfast Harbour Airport saw aviation services growing with 1.2 million customers a year. At the end of 1995, the MOD awarded another contract worth £37m for Starstreak missiles with a further order of £28m in 1996. This was expected to secure 550 jobs over the medium term. Shorts had become the largest single manufacturer in the North accounting for around 10% of its GDP.

The take over by the French Canadian engineering group Bombardier Corporation may create some interesting dilemmas. It has expressed a formal commitment to equal opportunities and has been influenced by its contracts with New York City to build subway trains. The latter played a major leadership role in the promotion of the MacBride equal opportunity principles (cf. below). Bombardier indicated to the Quebec Committee on Ireland as well as to its own Canadian trade union groups who have been supporting strong affirmative policies at Shorts that it aimed to get Catholics up to 25% of the workforce in as short a period as possible. Short's (relatively new at the time) equal opportunities manager, a former employee of the FEA, Rory Galway, claimed strenuous

⁷² Peter Viggers MP Under Secretary of State, 21st & 22nd July 1988, *NIO* press notices.

⁷³ *NIO*, *Ibid.*

⁷⁴ Roy McNulty, President of Short Bros., press statements 1995.

efforts were now made to promote shorts in Catholic schools and newspapers. He considered the disparity was now due not to actual discrimination but to “in-built selection procedures which perpetuate the existing imbalance”. He added, “It has to be recognised that Short Brothers was seen as more or less a no go area for many Catholics. Now we are saying this is a company to which you can apply in confidence and know you will be treated fairly”.⁷⁵ There is substantial evidence this view was not shared by the workforce who manufactured the product and carry out the recruitment for manufacturing staff. As Shorts and Harland & Wolff laid down their strategies for the 21st century, the message for Catholics within and outside the factory gates remained the traditional one.⁷⁶

Shorts exercised a critical role in the NI economy. Its products placed it at the centre of British military intelligence and Foreign Office considerations thereby having the full support of government and its agents. Such was its importance that the government could require a purportedly independent equal opportunity enforcement agency, the FEA, to become its advocate with foreign states to assist secure orders for military hardware. This wholly unprecedented activity by any equal opportunity body in Britain or the US effectively reduced the FEA to no more than a propaganda vehicle. This proved a fatal blow to its credibility in the US and would lead to its demise. However this was a prime example of a situation where the government did intervene financially throughout the 1970's and 1980's but not seek to alter employment inequalities. It was only when loyalists demonstrated so vigorously against British policies within the workplace during a highly sensitive time for contract negotiations with the US and the Irish American lobby became so effective that the government acted to take off the hard loyalist edge. Kevin McNamara MP claimed a secret deal was done to secure greater Catholic recruitment. If so the fact that it was secret indicates again the degree to which government policy was led by a unionist agenda. The end result was highly damaging to the local political process and simply confirmed loyalist workplaces were no go areas for Catholics. The symbolic role of the British governments' partnership with Shorts and the shipyard cannot be underestimated. Its actions were highly counterproductive in terms of laying foundations for an accommodation with nationalists.

⁷⁵ *People Management*, London 11th January 1996.

⁷⁶ Following the attacks on New York on 11th September 2001, combined with a slow down in demands for aerospace products Bombardier announced plans to reduce its workforce from 7,300 at Shorts by 480 with another 400 temporary staff in January 2002. Its order book remained full. *Irish Times*, 27th September 2001.

Ford.

The motor car industry has a significant presence in Belfast in the form of Ford Autolite which is located in Andersonstown, Catholic West Belfast. Established in 1965 constant allegations of discrimination were made by civil rights protesters. Ford's work force in the late 1960's was estimated to be 1200 and around 67% Protestant. The closed shop agreement ensured skilled apprentice jobs were handed down to sons of existing skilled workers as recruits were employed by word of mouth and family connections. People's Democracy, which emerged from the civil rights movement alleged the then personnel officer was a member of the UDR who was openly hostile to Catholics. They claimed personnel officers simply destroyed applications from Catholics.⁷⁷ By 1981 Ford employed 1504. The skilled workforce of 90 was 91% Protestant. Local Ford management opposed the application of equal opportunity legislation. They for example refused to co-operate with the FEA's equality study during 1977-80. In response to requests for compositional information Ford management asserted their work force was evenly balanced and declined to provide the FEA with any evidence to support or assess this claim.⁷⁸

The ninth annual FEA report for 1983-84 recorded a finding of discrimination against an unnamed engineering company. This was Fords. In 1983 Fords had refused two Catholic workers pass outs which would have allowed the men to leave at 2pm rather than 4.30pm. The plant manager, Mr.Carruthers imposed a blanket ban on the morning of St.Patrick's day. When the two left regardless they were disciplined. It was then discovered two Protestants retained their pass outs to attend the opening of a golf club. Further enquiries revealed that on the day, 10 Catholics had requested pass outs and 4 Protestants. The Protestants were granted passes and the Catholics refused. Faced with this "coincidence" the FEA concluded the company was guilty of discrimination. Fords' policy towards Orange celebrations was similar to Shorts. As part of the annual Protestant 12th and 13th July demonstrations, Fords always closed two hours early on the 11th July. This meant Catholic workers were deprived of two hours wages to subsidise this holiday. Holidays on

⁷⁷ *Discrimination in Autolite*, Peoples Democracy. Undated, March/April 1977. People Democracy was formed in 1968 in Belfast as a general leftist student based civil rights organisation.

⁷⁸ Fair Employment Agency, *Fords*, August 1977, January 1980, 3rd February 1981 Reports.

the 12th and 13th were compulsory. Fords insisted however that St.Patrick's was of no significance to Catholics as a holiday.⁷⁹

These disputes coincided with growing activity by the Irish National Caucus and its allies in the American Congress. As little progress was made they began to intervene. The Comptroller's Office for New York and others submitted shareholder resolutions in 1986 demanding Ford adopt the MacBride Principles in the North. This came at an embarrassing moment for Ford as it was just about to receive £10m in British government grants as part of a £30m expansion plan. Again the British government was uniquely placed to act and failed to do so. This followed on from earlier in the year when further political embarrassment had been caused by the discovery that Ford Dagenham in Essex, discriminated against black hourly paid workers in recruitment.⁸⁰ This in itself had attracted a high degree of attention in America. The Belfast situation intensified the pressure at Fords' US headquarters. They agreed to conduct a comprehensive review of employment practices in Belfast if the shareholders withdrew their motion. The INC had mounted a boycott Ford campaign and distributed a million leaflets detailing discrimination in Belfast. They utilised the Irish-American consumer market and church base of their leading figures to mark down Ford in the highly competitive American market. Fords responded by sending their vice-president for Employee and External Affairs, with a seven man executive team, to conduct the enquiry.

The team confirmed the MacBride Principles would be used as "a measure of fair employment practices". The report covered Fords' employment history from 1965 to 1985, with specific allegations from 1985 to 1987 considered separately. They visited the factory on 15th June and published their work *Fair Employment Policies and Practices*, on 15th September 1987.⁸¹ At the time of the survey Fords' work force had fallen to 800. The religious composition was found to be at May 1987, 307 (38.4%) Catholic, 456 (57%) Protestant and 37 unknown. Catholics were under-represented in six major job categories. One out of 13 senior managers was Catholic; 1 out of 11 clerical staff; 5 (33.3%) middle managers; 45 (37.5%) supervisors and professionals; 231 (42%) semi- skilled and 24 (26.4%). The distribution of the work force within the factory confirmed a history of

⁷⁹ Fair Employment Agency, *Ninth Annual Report* for 1983-84, Belfast HMSO.

⁸⁰ *The Guardian*, 2nd October 1986.

⁸¹ Fords', "*Fair Employment Policies and Practices*", at Ford Autolite, 15th September 1987.

inequality of opportunity. Catholics were concentrated in 7 departments where they accounted for 56.8% (192) whereas in 4 other departments Protestant domination was 77% (196).

The American officials opened negotiations with the local TGWU to make St. Patrick's a holiday; a list of compliance principles to be monitored by the US and Ford's equal employment office in Britain were imposed; all internal and external forms were to carry Ford's commitment as a "constant reminder" and a scholarship was introduced to be offered on the "basis of equality of opportunity" with employment for a graduate trainee guaranteed. The nine point set of principles directly reflected the MacBride principles. Ford said that in adopting "the substance of the MacBride principles", they hoped to avoid "legal and operational obstacles to implementation". This comment reflected the fact the NIO and FEA were then engaged in a vigorous anti-MacBride campaign in the US.

The report stated individuals from "under-represented religious groups", were to be increased; the display of "provocative religious or political emblems", prohibited and security arrangements enhanced. Job reservations and restrictions on apprentices were ended and training programmes "so far as the law permits", were to be established to advance "under-represented religious groups". Lay-offs had also to be free from "religious criteria". At this stage no action was taken against the existing managers who were responsible for the situation in the plant. Further pressure in the US led to the key figures being replaced by two Catholics.⁸²

Irish-Americans hailed this as a breakthrough. For the first time an American employer had directly responded to their campaign by conducting an equal opportunity audit in the North. The work carried out over a few days made a stark comparison with six years of work by the FEA that produced four sentences in an obscure report that failed to even identify the company.⁸³ Ford's example demonstrated how the strength of money - in this case institutional investors with billions of dollars at their disposal and political clout in America could be deployed to progress equality of opportunity. Further food for thought for its workforce was provided by Ford's decision to sell its 60 year old investments in

⁸² Ibid., see also Religion and Fair Employment in NI: *Case Studies of Six American Companies*, Bertsch, K.A. & Voorhes, M. Investor Responsibility Research Centre, January 1990, Washington, USA.

⁸³ FEA *Engineering Report*, 1983.

South Africa in response to sustained shareholders pressure.⁸⁴ Yet a major source of grant aid and tax breaks, the British government, remained silent and failed to act in accordance with its public commitment to end discrimination.

Despite this report the general management practices of Ford UK remained of some concern. Trade unions identified Fords in Britain as an organisation, which utilised the Economic League-a right wing group that maintained secret "blacklists" of people they regarded as political troublemakers for employers. Although Ford stated they withdrew from this service in September 1990, the Amalgamated Engineering Union, claimed a new process of vetting would achieve the same result. At the end of November 1990, New York City's Comptroller, Elizabeth Holtzman, publicly criticised Ford Belfast for failing to deliver on its equal opportunity commitments. New York City owned \$64.7m of Ford stock. She said Ford had failed to make "any special efforts to attract applicants from under represented groups and in some cases has limited hiring to internal candidates to the detriment of Catholic workers". Nothing had been done about the St. Patrick's holiday issue and Fords "still seem to have significant difficulties in achieving its goals and making its position clear in the community".⁸⁵ Internal sources reported that the new Catholic managers had proved unable or unwilling to take on the loyalist controlled shop stewards who were blocking progress. IDB promotional literature quotes, Fords former manager, Mr.Carruthers acclaiming "Work to the people of Northern Ireland is a way of life". Given the nature of the car industry which utilises short time working, temporary workers and lay offs as common work practices it is important in terms of equality that policies and objectives are consistent and verifiable.

Ford UK for example lost £920m in 1991, and made 2000 workers redundant from its 39,000 workforce during 1991-92. Over 1000 were at Halewood on the Merseyside with the rest at Dagenham in East London, Wales and Belfast. In April 1992, it decided to contract out the design and production of seats for the Escort, Fiesta and Orion models.⁸⁶ Ford also predicted a decline in its European markets losing \$407m in 1993 although domestic production in Britain remained sound with Ford retaining market leadership.

⁸⁴ *The Guardian*, 15th July 1987.

⁸⁵ Local press reports, *Irish News*, *Belfast Telegraph*, November 1990.

⁸⁶ Interestingly among those who lost their jobs included women sewing machinists whose two week strike in 1968 secured a historic victory leading to the 1970 Equal Pay Act. Another six week strike in 1984 which cost the company £250m secured the women's claim for equal pay for work of equal value.

Ford for example invested £15m in 1994 in its engine component plant in Belfast. By 1994 Fords' workforce in Belfast was down to 635. This contained 277 Catholics.⁸⁷ During 1996 Fords caused much controversy by "whiting out", the faces of black and Asian workers at Dagenham which was supposed to promote Ford's as an equal opportunity employer. In June 1996 seven black and Asian workers took the company to an industrial tribunal accusing the management at Dagenham of declining to transfer ethnic workers to the much coveted £32,000 a year jobs as lorry drivers. The assessors were accused of operating a family only policy which was not challenged by senior management. In 1998 Fords announced production of the new Jaguar would take place at Halewood. While this was welcome relief to Merseyside the evidence is that Ford UK and Ford NI in particular have failed to combat discrimination. A view reinforced by the controversy at Ford Dagenhams in late 1999 over racist bullying, assaults and threats that Bill Morris, general secretary of the TGWU described as the "tip of the iceberg".⁸⁸

In an industry that suffers from such volatile swings as the car industry it ill behoved a government with equality as a "moral objective" to simply act as an observer. In NI it became exposed to intervention by Irish American interests who secured more in terms of public profile, education and expectation than it had achieved over 25 years. At the very least it illustrated the fact that the British governments' equal opportunity policy at this time was at best devoid of leadership and direction. It also underpinned the fact that inequalities became an issue only when groups other than the government made it one.

Dreammakers.

Two examples of enthusiastic British intervention to secure American investment provide an interesting footnote to this section. They are both important due to the unprecedented amounts of money Britain would deploy, very unwisely as it turned out, when it decided to intervene politically and economically in a company's development. They are also examples of what can happen when ad hoc decisions are made in the absence of any coherent strategy to secure equality of opportunity in manufacturing.

One of the most colourful investors to grace Irish shores and leave as suddenly as he arrived was John Zachary De Lorean. The then Labour minister, Roy Mason MP, literally

⁸⁷ FEC *Monitoring Returns*, 1994.

⁸⁸ Beckett, Andy. Engine Trouble, *The Guardian*, G2 Feature, 6th October 1999.

threw £54 millions of public money at him. While De Lorean took off, his silver gull-winged car 'bombed'. On August 3rd 1978, De Lorean announced his dream project, the DMC 2 was to be constructed from scratch at Dunmurray in Belfast. Mason promised 2,400 jobs. Catholics were to gain by having the factory on their door step. Mason saw this as "weaning youngsters away from the IRA", or the 'plastic bullets and leisure centre strategy' as it was locally known at the time. De Lorean secured as his legal representative a former senior insider to the NIDA who had also been Stormont's Minister of Commerce. A shelf company, GPD Services, was set up in Panama, then moved to Geneva, Switzerland, in order to transfer funds received from the government. Lotus undertook the development work for £12m. They claimed later none of the \$17.8m research costs were ever paid. The official receiver later reported he found it unusual for a company to guarantee development costs and then for Lotus to invoice the De Lorean Research Ltd partnership for over £11.5m for the very same work as "astonishing". When Lotus claimed not to have received the \$17.8m he said, "To say we were surprised, is understating it". The conclusion was a massive fraud had been perpetrated against the public purse. As it began to fall apart in 1980, the report showed Humphrey Atkins, then Secretary of State, ignored those advising against further grants by giving De Lorean another £14m for the project.⁸⁹

De Lorean claimed to have secured \$300m of orders before the first car was built. Rejected by Puerto Rico and Dublin, Mason proudly declared he had "nailed the deal in 45 days".⁹⁰ De Lorean's financial contribution was a relatively small sum of \$0.5m. This also happened to be the figure he chose as his annual salary and excluded the £65m he would transfer from DMC in interest free loans to his American based company. Hotel California had come to Belfast. Production started in 1981 and 8000 were actually built before closure. 3000 were sold with some difficulty at discount prices as the car proved technically flawed, treacherous in the rain and a fire safety risk. As financial problems intensified, James Prior, then Secretary of State, declared that at £93m enough was enough. The plant closed on 31st May 1982 with 1000 cars still on the line. The receivers were called in on October and twenty other companies across Britain went bankrupt as a result. US dealers were owed \$1m and the last 16 maintenance workers went home. At the same time De Lorean was arrested by the FBI for alleged cocaine dealing.

⁸⁹ How De Lorean Came to Belfast, Fallon, Ivan. & Srodes, James. *Irish Times Supplement*, 18th June 1983.

⁹⁰ Roy Mason MP, NIO press statement.

The official receiver informed the Commons Public Accounts Committee in July 1984, \$17.65m of public money had gone missing. \$9m had been traced to various holding banks and it was discovered De Lorean and his management team had paid themselves £1.8m a year.⁹¹ Liquidators were still trying to recover the £113m owed by the company from auditors Arthur Anderson in 1989. In July 1989, the former chairman of Lotus car company was charged with conspiring with De Lorean to defraud the company of £3.5m. Earlier in 1986 De Lorean had been cleared of embezzling £5.9m. The Accounts Committee described the project as "one of the gravest cases of the misuse of public resources", and "a shocking misappropriation of public and private money".⁹² As Mason's fellow MP's charged him and others with "dishonesty, duplicity and incompetence", he asserted "I have no regrets. No private enterprise employer would go into West Belfast".⁹³ The following assesses just how much of this investment went to the community, for whose benefit, all this had allegedly been done.

At the point of closure 1439 were employed. De Lorean claimed 2000 had been employed by August 1981 and for a brief week in January 1982, 2600. Despite the massive investment and political importance of the project no equality monitoring was ever carried out by the FEA. However the Department of Manpower Services (DMS), conducted a number of exercises covering recruitment from inception to March 1981. Classified as "Restricted", some reasonable assessments in terms of religion can be made from the information gathered.⁹⁴

The first 469 employees were in place by mid-November 1980. The bulk, 287 were production workers. The majority, 284, came from the Belfast and Lisburn district council areas. Wards which provided more than 10 employees included, Andersonstown, Clonard, Finaghy, Ladybrook, St.James and Whiterock. Suffolk provided 30 and Dunmurray 82. Of these 284, approximately 118 came from predominantly Catholic wards. One significant fact discovered was that 65% of the total work force were 'job changers'. This suggests the unemployed regardless of religion were benefiting to a lesser degree than expected.

⁹¹ *Belfast Telegraph*, 18th July 1984, *Irish News* 2nd May 1985.

⁹² All Party House of Commons Committee Report, HMSO, 11th July 1986.

⁹³ *The Guardian report*, 12th July 1986.

⁹⁴ *De Lorean Motor Cars Ltd. Monitoring Report No.1 on Employment up to Mid-November 1980, and Monitoring Report No.2 on Employment November 1980-March 1981.*DMS, Northern Ireland.

A second report completed in July 1981 examined the intake between November 1980 and March 1981. Of the 560 employed the majority, 474, again came from the Greater Belfast and Lisburn areas. When broken down to the district council level, 130 of the 341 from Belfast and Lisburn were Catholic. For example the Protestant Dunmurray ward provided 88, the Catholic Ladybrook 24, New Lodge 1, Milltown 8 and so on. The unemployed fared better this time with 46% (257) recorded as job changers. With 1092 recruited by the middle of July 1981, the religion could be ascertained for around 625 production and clerical workers. Catholics accounted for 248 (39.7%) of this number. With the origin of others recorded at a less specific level religious labelling becomes highly speculative.⁹⁵

It is clear however some short term benefits occurred for both Catholic and Protestants employees. As De Lorean chased his own silverstreak dream, significant investment in West Belfast was dealt a mighty blow. As a footnote on this sorry episode, De Lorean's car was used in the successful Hollywood movie, *Back To the Future*. On the 6th May 1992, the RUC issued a warrant for his arrest. The week previously, former Lotus Car Company chief, Fred Bushell, admitted to conspiring with DeLorean to defraud DMC and the public purse of £10m. Delorean cannot be extradited from the US. Bushell was jailed for three years and fined £2.25m. The judge accused them of a "barefaced, outrageous and massive fraud". Both De Lorean and Chapman would have merited a sentence of ten years had they been before the courts. Bushell's sentence reflected the state of his health and a guilty plea. Between them they had netted half the initial £35.9m in government grants to themselves. Another American high flyer and fast talker to bite the dust was Lear Fan. His revolutionary carbon fibre executive jet promised 2,800 jobs, this time in Protestant areas at Newtownabbey and Antrim. When it 'crashlanded' in August 1984, 380 lost employment with losses of more than £56m and the by now usual allegations of financial malpractice.⁹⁶

General Motors.

A more stable investor was General Motors subsidiary, Fisher Body, which manufactures seat belts. Established in East Belfast at Dundonald, the former Rolls Royce plant, it

⁹⁵ Authors analysis of data.

⁹⁶ All Party House of Commons Committee 10th July 1986, *Irish News* 11th July 1986.

received £35m in grants. The plant was decorated with the standard loyalist regalia. In 1981 the management in response to US pressure ordered the removal of these symbols. The workforce went on strike. A climb down ensued although when another plant was opened at Kennedy Way in 1982, - the Catholic side of town,- displays were expressly prohibited. The unions operated a "first in last out", policy which led to 60% of the 350 employed at Kennedy Way being laid off when design problems occurred in 1985. The 900 at Dundonald were not effected although 100 were laid off in 1991.

This led to institutional shareholders proposing motions calling on GM to adopt the MacBride Principles. In 1987, the New York Comptroller's office and other investors forced GM to instruct local management to remove the sectarian flags and emblems at Dundonald.⁹⁷ It was also a year of 114 job cuts and threats to close the Kennedy Way plant completely which were imposed with AUEW support without regard to any concept of equity or an employment strategy that sought to promote and afford equal opportunities during cut backs.

Again these examples illustrate the capacity and willingness of the British government to grant and maintain large inducements to secure external investment but critically with “no strings” attached. It is noteworthy that each of these “Catholic” investments occurred during periods of major civil conflict. However it has been apparent throughout that even when sectarian disputes occur and become international issues there has been no overt public intervention or utilisation of public funds to direct and promote equality of opportunity by punitive or other measures.

Smoking

The two main cigarette manufacturers were Carreras (Rothmans) and Gallaghers (American Brands) which was part of a larger group with sales profits of £3.4bn. Carreras opened at Carrickfergus in 1964 with employment peaking at 1500 in 1980. Many of the work force came from the nearby Protestant estates in Rathcoole, Greenisland and North Belfast. Its closure in August 1986 was a devastating blow. Between 1980 and May 1986, the area had lost almost 7000 jobs in three international companies. Courtaulds alone had

⁹⁷ General Motors statement, reported in *Irish News*, 23rd May 1987.

employed 4000. The local Protestant sense of security and well being brought about by two decades of employment was severely shaken. Another shock occurred in 1986 when Gallaghers announced the decision to close its Belfast plant that dominated the foreshores of North Belfast.

Gallaghers imposing red brick factory overlooked the surrounding Catholic New Lodge, with the work force drawn from the Protestant Tigers Bay area, the Old Park, Whitecity and former communities devastated by redevelopment along the foreshore. Another plant was located in Ballymena. Together they employed 3000. In Belfast 34 of the 446 workforce were Catholic; of these 3 out of 71 were managers, 2 out of 50 were staff; and 11 of the 157 semi-skilled and unskilled. At Ballymena, 197 of the 197 of the 1559 employed were Catholic. Of these 2 out of 50 were managers; 13 out of 117 senior staff; 5 out of 55 staff; 8 of 108 skilled workers and 166 out of 1023 semi-skilled and unskilled.⁹⁸ Profits at the time of the closure were £87.1m. The Ballymena work force lost 290 from the 1570 employed, while 480 workers were retained from the Belfast plant. American institutional shareholders mounted investigations into management practices and concluded the company had "a notorious reputation for discriminatory hiring practices". As with other Protestant companies, the factories were adorned with loyalist paraphernalia, the workers participated in loyalist protests, and loyalist para-militaries recruited on the shop floor.⁹⁹

New York's Comptroller's office, the Franciscan Friars and Sisters of Charity, New Jersey, put forward shareholder resolutions to oblige American Brands to endorse the MacBride Principles. The company, supported by the FEA, and BIO in Washington, claimed this "course of conduct would be illegal". The Comptroller's office sought a legal direction from the Federal District Courts to uphold the legality of their proposals. When the American courts sustained this view Gallagher's was forced to make a public commitment to equal opportunities and specifically prohibit displays, "which are either causing offence, apprehension or being blatantly provocative".¹⁰⁰ Within a week workers protests at Ballymena led by Paisley led to the reversal of this position, with flags and emblems on

⁹⁸ IRRC, 1988, 1990 USA. *Case Studies of Six American Companies*, Bertsch, K. A. and Voorhes, M. January 1990, IRRC, Washington USA, and Booth, H. E. *US Companies and Fair Employment Practices in Northern Ireland*, IRRC, 1988.

⁹⁹ *Belfast Telegraph* reports, 1st May 1986, Rhodes Boyson MP Minister of State press releases 1st, 6th and 27th May 1986, NIO.

display for July.

The American institutions in turn threatened to disinvest pension funds which at the time would have left Gallaghers exposed to a take over bid by Hanson Trust. Honour and prejudice were finally satisfied by the trade unions accepting a ban on displays in return for the Union Jack flying on the company flagpole. The Transport and General Workers Union confirmed "A lot of this pressure was coming from the United States".¹⁰¹ The position was reinforced in 1988 when 2000 warning letters were issued to employees.

Despite Gallagher's reputation and the nature of this controversy the company was not subject to a formal investigation by the FEA. From 1976 to August 1982, Gallagher's personnel manager was a member of the FEA board deciding upon individual complaints and determining strategic issues such formal investigations. Not until December 1988, did the FEA conduct a compositional analysis which in itself was too late to influence any redundancy or training issues. The company dominates over 40% of the UK market.¹⁰²

Flying the flag.

Flying the flag during the Anglo-Irish Agreement protests became a common feature in Protestant work places. Tensions were high, tempers short, parades and displays frequent. The GEC plant at Larne was another important example. It received significant grant aid, and had direct connections with senior government ministers. For example the former Secretary of State, James Prior, became GEC chairman on his resignation from politics. By 1986, 750 were employed at GEC with a growth target of 2,500 as part of the grant package. These targets however were never reached and GEC instead reduced its workforce by 265. Despite this insecurity and the reliance on government grants the workforce, management and trade unions did not alter the traditional loyalist band parades and displays.

¹⁰⁰ *Irish News* Report 30th April 1986, 18th July 1986; 23rd, 24th, 27th, June 1987; 1st July 1987.

¹⁰¹ *Irish News*, 25th August 1987.

¹⁰² By 1994 its total workforce of 1186 included 155 Catholics. Between 1992 and 1994 Gallaghers had reduced its workforce by 388 with further redundancies in 1996. In 1995 Gallaghers put its Prestige non-electrical houseware business and its Forbuoy's CTN (confectioner, tobacconist and newsagent) chains for sale to raise between £94m to £110m. The Co-Operative retailers which took over Gallaghers site in Belfast employed 80 Catholics in its 562 workforce across the North. (FEC *Monitoring Returns*, 1996).

The senior shop steward described the factory parades as "a traditional event with no real sectarian connotation." The general manager expressed surprise that any of the few Catholics at GEC "felt intimidated". He felt "as it was a light hearted event it would be inappropriate to take any action which might have harmed overall industrial relations".¹⁰³ Many Catholics in NI would consider loyalist parades in the workplace about as 'light hearted' as a Klu Klux Klan cross burning ritual. Earlier in 1987 the IDB had supported a £20m investment programme with the prospect of another 100 jobs. GEC was also bidding for US contracts. As workers protests increased, the press reported that the English Board of Directors in Rugby advised local management it could not afford to have potential contracts jeopardised by sectarian loyalist demonstrations.

The local manager accordingly issued a warning letter advising "that flags and buntings are totally inappropriate and unacceptable in a modern factory environment". This produced a vociferous reaction with larger parades and displays. An *Irish News* editorial condemned GEC as a "firm that permits the type of terrorism to be a traditional feature of life in one of their factories". The SDLP derided management as "weak and pathetic" in the face of "the most blatant example of loyalist bullyboy methods".¹⁰⁴ The INC attempted to have the US House Sub Committee on Appropriations suspend US contracts. The GEC board responded by instructing that disciplinary action be taken. Apart from minor warnings little was done and the plant settled down into the relative calm of the post marching season for another year. In April 1991, GEC announced it was to shed 900 jobs at four UK sites. This included the closure of the Larne plant with a loss of 500 jobs. Another opportunity for positive intervention by government in terms of equality over a decade had been lost.

Flags and emblems are a serious matter. In some incidents workers have threatened to bring the whole economy to a halt should their "birthright" be infringed. During the Shorts protests for example Ballylumford power station workers asserted, "we are prepared to kick very hard," to support workers at Shorts "in their struggle to fly the flag of the country freely". A work force could even prevent contractors getting work if they considered they employed too many "fenians". A High Court case involving a Catholic demolition company revealed the Ballylumford work force and trade unions had

¹⁰³ *Irish News*, 11th June 1987

¹⁰⁴ *Irish News*, 3rd and 11th July 1987.

successfully blocked a contract award to a Catholic company even though they proffered a lower tender. In this case, the Northern Ireland Electricity Service management were found to have supported this, thereby effectively depriving the company of a living as the NIES was a monopoly supplier for this specialist work.¹⁰⁵

Conclusion.

These examples in manufacturing demonstrate the absence of a consistent and comprehensive equal opportunity package directed by the British government. While investing millions of pounds in the attraction, maintenance and development of key sectors of employment this was done without setting any specific preconditions or demands to further equality of opportunity. The pressure when it came appears to have been in response to the degree of political violence or crisis and or American institutional intervention.

The British government had commissioned major investigations into the causes of civil unrest, i.e. the *Cameron Report*; it had prorogued Stormont to avoid the possibility of civil war; it had been witness to violence, death and destruction in all parts of Britain, it provided enormous sums to fund and maintain manufacturing and public service employment; it was the parliament for the whole of the UK; yet it had not utilised its economic muscle or legislative making powers to produce a coherent anti-discrimination strategy that would fundamentally alter and reverse patterns of inequality. In this respect it has been argued that government cannot avoid a direct responsibility for the enduring quality of these differences and their often physical consequences.

This has continued throughout the 1990's. For example the government placed orders worth £4bn to upgrade the RAF's defence capabilities. This included the development of a Storm Shadow missile, and 21 Nimrod 2000's. The main contractor is British Aerospace. Its sub-contractors include Shorts thereby sustaining 200 jobs and GEC as a main partner following vigorous government intervention (GEC was originally part of a rival bid).¹⁰⁶

What the government did do however was try and ameliorate political unrest by

¹⁰⁵ Court case report in *Irish News* 12th June 1987; and Ballylumford report in *Irish News* 4th July 1987.

introducing the Fair Employment (1976) Act and Fair Employment Agency. We will now assess its degree of success by reference to specific investigations, key players and the role of government. It will be argued that from its introduction to its demise under the 1989 Act, the record is one of failure. While the reasons for this are several ranging from political intervention, lack of leadership and incompetence a central thread to the argument advanced throughout the work is the unionist paradigm that constantly marked the limitations of any such social policy goals and objectives. We have already demonstrated by earlier comparisons with the American legislative model it did not have the power or indeed the objective to fundamentally alter sectarian employment patterns. We will now demonstrate that the FEA rarely tried and indeed became a wholly discredited broker for equality of opportunity. This will be exemplified by reference to original material.¹⁰⁷

¹⁰⁶ *The Times*, 26 July, 1996.

¹⁰⁷ The Fair Employment and Treatment (NI) Order 1998 and the Race Relations (NI) Order are not part of this analysis.

Chapter 7. **Quis Custodiat Ipos Custodes: FEA In Action 1976-89.**

Introduction.

This chapter reviews the application of the Fair Employment Act 1976 by the Fair Employment Agency (FEA). The failure of the Agency to achieve any change in patterns of inequality or attitudes are assessed against a British agenda to sustain the unionist status quo. The reasons for abandoning formal investigations, changing findings or not publishing reports in the context of external political pressures and in the opinion of several Agency staff the political prejudices of Agency Board members are examined. It is argued that the FEA Board allowed the application of the Act to be reduced to no more than a propaganda vehicle. This theme is developed further in Chapter 8, which outlines the government's response to the intense Irish American campaign for equality of opportunity in NI. It also serves as a critical pointer to the successive reviews of the 1976 and 1989 Fair Employment Acts carried out by the NI Standing Advisory Committee on Human Rights (SACHR).

While the Act came fully into effect on 1st December 1976 the Agency itself was set up in September with eight staff. The Department of Manpower Services published a voluntary Code of Manpower Policy and Practice and the Agency in accordance with Section 6 of the Act encouraged employers to sign a "Declaration of Commitment and Intent", to implement principles of equality of opportunity. The CBI and unionist controlled councils opposed signing this due either to their opposition to the Act or the implied implication, they claimed, that to sign such a Declaration would be construed as evidence they had discriminated in the past. The CBI for example sought and obtained agreement from the FEA that employers could agree to sign Declarations which had the statement, "we will continue to promote and protect" equality of opportunity. The FEA Board acceded to this demand in practice despite stating "that before accepting such a form it would be necessary in each case for the Agency to satisfy itself about the past practices".¹ The equal opportunity Declaration was however awarded automatically on request without any preconditions or verification. Those who wished to sign could do so. The FEA chairman made numerous public declarations that he could not envisage any circumstances whereby

¹ FEA *First Annual Report*, 1976-77, p.9, 30th November, 1977, Belfast HMSO.

a company's name would be removed from the register. At the Agency's first major seminar for commerce and industry in March 1979, *Without Fear or Favour*, a Catholic Board member Tom Conaty, speaking as an Agency representative put forward what he saw as the causes of discrimination. He first of all informed the conference delegates he was a bigot. He explained:

"I find, quite honestly, that my reflex action is to discriminate. That's my gut reaction ... to discriminate. I don't think I'm different from most of the rest of us, therefore, I feel that we should try to convince ourselves that we haven't got rid of that, that our gut reaction is to discriminate in Northern Ireland".²

Neither Cooper nor Conaty in their presentations chose to make reference to the interplay between the forces and consequences of history, vested interests, economic, political, and military conflict or the role of the local and British state. The conference message from the Agency was simply one of reducing everything to the plane of individual "gut reactions".

At the same conference, Cooper reassured the audience that although the Act contained enforcement powers, he and "everyone is reluctant to have to use" them. At this stage only four findings of discrimination had been made. Cooper added, he did not see the need to seek any extension to the legislation or the Agency's resources as he was heartened that employers had "come to recognise the advantages", and by the "substantial adherence to the Declaration". Agency officers were aware that many employers were hostile to the legislation and that adherence to the "Declaration" had not been tested nor was any proof of adherence required to secure this endorsement from the FEA. By any standards it was a startling claim.³ Indeed Cooper reported in the FEA's first Annual Report that at 31st March 1977 only five out of 26 district Councils had signed the Declaration and that reports, "of District Councillors actually tearing up the Fair Employment Act and the Statutory Declaration are hardly calculated to instill in the general public confidence in the Equality of Opportunity provided by their Councils".⁴

Cooper declared that the use of the FEA symbol by company's advertising jobs would act like a beacon to those who might otherwise be wary of applying. He said this is "A symbol to be proud of possessing, it declares that anyone who applies to that employer can do so

² FEA Conference Report, "*Without Fear or Favour*", 6th March, 1979, Fair Employment In Action, N0.2

³ FEA operational practices and evidence presented in Chapters 6 & 7 from investigations and FEA staff.

⁴ FEA First Annual Report, 1st September 1976-31st March 1977, p.9, 30th November 1977, HMSO.

in the knowledge that he or she will be considered on merit, and merit alone".⁵ While most employers didn't use it, Harland and Wolff, Shorts, and the NIES did. The effect of this may be gauged by examining a contemporary jobs page of the *Belfast Telegraph's* Thursday edition at random. On one night, 176 notices appeared for 250 jobs, excluding education. The FEA's symbol appeared twice.⁶ By the time the 1976 Act was replaced by the 1989 Act in 1990, not one of the more than 9,500 employers on the equal opportunity register had been removed for failing to afford equality of opportunity. This included those where discrimination had been proved and upheld in the Courts.

Individual Complaints (i).

The first year of the Agency's existence was marked by a low level of complaints. Cooper attributed this to "the present climate of violence". He added, "For this, as well as for other reasons, our wider investigative powers are likely to bear much more fruit".⁷ In reality Cooper declined to use these powers as he informed staff he saw "educating employers" as a preferable low key strategy option likely to secure greater support. This would lead to serious internal dissension. By 1988 he had exercised his personal discretion not to pursue 100 individual complaints. These included several charging him directly with political discrimination as an employer and in dealing with complaints brought against other employers (see below). Despite this overly accommodating approach employers continued to hold the FEA in very low regard. A complaint against the DoE's Property Services Agency exemplifies this.

A Catholic male upon applying for a permanent position in a job in which he was already employed was found "unsuitable". In response to the individual's complaint, the PSA lied to the FEA. They claimed there was "a freeze on recruitment" and the "man's suitability was not in doubt". Meanwhile the job was offered to a Protestant, not once but twice. When this was discovered the DOE claimed there was some doubt "as to his security standing". When the duplicity was exposed by other means to the FEA, Agency members, taken aback at being taken at "face value", issued a letter expressing "deep concern that a Westminster government department should attempt to deceive", the FEA. The deception

⁵ FEA Conference Report, *Without Fear or Favour*, 6th March 1979, FEA.

⁶ *Belfast Telegraph*, Thursday, 3rd April 1988.

was discussed at length at successive Agency meetings for eight months with threats of legal action eventually petering out into simply recording the matter in the annual report.⁸ When Peter Shore MP, Labour's under-secretary of State, replied he agreed this "was most unfortunate", but was more due to "administrative confusion ... coupled with a concern to avoid compromising the nature and source of certain information".⁹ The department declined to address the role and motivation of an individual's colleagues dubbing him a security risk in order to secure a Protestant in the post. The FEA maintained the view "there was a clear and deliberate attempt to deceive the Agency".¹⁰ The DoE's "scant regard for the role of the Agency", was found to be the prevailing attitude among private and public sector employers by FEA staff.

The increasing issue of Section 42 certificates by the Secretary of State to stop investigations further undermined credibility and led to protests by nationalist political parties. Public bodies such as the NIES, the civil service, and the MOD, frequently sought and gained exemption under this power. A typical case for example was a 17 year old Catholic youth seeking an apprenticeship with the NIES. Having passed all the tests he was turned down in 1984. Once a complaint was registered the NIES secured a certificate blocking any enquiry on the grounds of national security. One that slipped the net was the man who applied for a ship-keeper's vacancy in 1984 on HMS Caroline, the local headquarters of the Royal Naval Reserve. A clerical officer told the man he had failed to get security clearance. He informed the man's brother who also worked on the ship, "There is no way I could start another one of you. I have already been classed as a Fenian lover by ship-keepers". The brother himself had only been employed in response to complaints the MOD were not employing Catholics. At the appeal before the County Court in December 1987, the complaint of discrimination was upheld. The hazards and vicissitudes an individual has to endure before having their "day in court", is amply demonstrated by this case which lasted three years. Only the inexplicable failure to issue a Section 42 certificate allowed some redress and insight into employment practices at MOD establishments.¹¹

⁷ *First Annual Report of the FEA for NI, 1st September 1976 to 31st March 1977*, p.11, HMSO, 30th November 1977.

⁸ FEA Chairmans' letter to Peter Shore MP, Under Secretary for Environment 22nd November 1977. FEA Board Minutes, 12th Meeting, 9th August 1977; 13th Meeting, 13th September 1977; 14th Meeting, 11th October 1977; 15th Meeting, 8th November 1977; 16th Meeting, 13th December 1977; 17th Meeting, 10th January 1978; 18th Meeting, 14th February 1978 and 19th Meeting, 14th March 1978.

⁹ Peter Shore, MP. op.cit., pp.20-21, *FEA Second Annual Report, 1977-78* HMSO, 13th June 1979.

¹⁰ *Second Annual Report. FEA, 1977-1978*, pp. 19-21, Belfast HMSO, 1979

¹¹ FEA case files.

A Protestant who had served in the TAVR for 18 years had his employment terminated as a civilian driver for the MOD. The reason was his membership of the Loyalist Prisoners Aid organisation. Any enquiry by the FEA was stopped by the issue of a S42 certificate. A young Protestant was turned down for the RUC because his father was a prominent Vanguard loyalist councillor. A Catholic female serving in C company 9 UDR was 'stood down' from duties when she complained about being denied overtime. She said this was because of her religion. The Commanding Officer accused her of "disloyalty" and asserted the Battalion "was totally open minded about religion and discrimination was not part of their make up". As a Catholic himself, he said "all other Catholic members of the Battalion were extremely happy and totally integrated". No action was taken by the FEA except to report the case against a "Public Body", in its annual report.¹² In another case involving the MOD, a Protestant joiner was marched off Thiepval military barracks at Lisburn where he had been working for five weeks. His employer sacked him. The MOD later admitted their mistake. No recompense was offered, no public debate took place. Another example included the Secretary of State depriving a working class woman of her livelihood as a civil service cleaner because her son had been convicted for activities as a member of the loyalist Woodvale Defence Association in 1972, - long before the Act existed¹³

Secrecy.

Secrecy as an instrument of government is a common administrative practice among British government agents and institutions. However within the context of promoting equality of opportunity in a society riven with political and military conflict *and* where the government claimed its objectives were to reach an accommodation between competing visions and aspirations it is highly doubtful that secrecy could ever be an effective tool for cementing a sense of common purpose and objectives. It did not aid or contribute to the educational process of promoting equality. Secrecy certainly proved no friend to Protestants, Catholics, or equity. Indeed secrecy mitigated against the effective monitoring of employers and prevented any sense of public accountability within the FEA. Secrecy in administration has produced a variety of dubious practices without redress in the British

¹² FEA *Fourth Annual Report*, 1979-80, Case No.112, p.27-28, HMSO, 7th May 1981.

¹³ FEA *Third Annual Report*, 1978-79, Case no.24, case files.

system of government. Where the possibility of challenge or explanation is denied then any concept of natural justice founders immediately. This would become a fatal flaw for the FEA in its operational practices. For by so readily agreeing with employers that they would not be identified or material would not be published its credibility suffered as did its capacity to act as an advocate. Secrecy allowed the FEA to conceal from the public the extent of acts of discrimination by the UDR, the RUC, the TAVR, the Civil Service Commission, the NIHE, the postal service, all the Health and Social Service Boards, the Electricity Service, GEC, Ormeau Bakeries, Scottish Widows, Bass Charrington, Ratners Jewels, Abbey Meat Packers, the Belfast Telegraph, - in short a full spectrum of local employers including the FEA itself. In some cases, such as the NIES, on more than one occasion.¹⁴

From the outset the Agency regarded education as an ambitious and critical goal. Officers in the FEA however came to see 'education' as increasingly equated with a policy objective of concealing or acquiescing in questionable practices as they considered the Chairman increasingly made his decisions with reference to political expediency.¹⁵ It was felt large scale investigations with potentially negative findings could somehow add to destabilising the situation within NI. Even during the latter period of the 1976 Act requests by Labour MP's in the House of Commons seeking to identify which employers had been subject to the law were not revealed. A stock response was: "It would not be in the best interests of the work of the Agency to release the name of the parties involved."¹⁶ Employers, regardless of their practices remained cloaked in the Agency's veil of secrecy. Over 40 of these where compensation had been paid were directly funded by government. The public, except when a case ended up in court, remained ignorant as to the promotion and effectiveness of equal opportunities. In some incidents the FEA would take this to extremes. For example some ten years after an enquiry had taken place the FEA refused to provide the House of Commons with information. An individual complaint of discrimination made by a Catholic male on 6th July 1979 had revealed on a partial analysis the workforce on the shop floor at the Belfast Telegraph was 6 Catholics and 126 Protestants. The paper had a circulation of 86,000 and in effect exercised the role of a

¹⁴ See FEA *Second, Third and Fourth Annual Reports* where in some of these cases a brief and anonymous synopsis was presented for individual cases. The FEA did not make an in principle decision to publish, (in a heavily abbreviated form) its anonymous reports on Section 12 investigations until 1982.

¹⁵ Northern Ireland Public Service Alliance, *Branch 147 Secretary Files* and correspondence to FEA.

¹⁶ Hansard, 23rd May 1988.

‘national’ daily for NI. In May 1988 the FEA still refused to disclose this.¹⁷ In this the government were equally culpable as they could have demanded a change of practice and provided the leadership to develop a culture of transparency from the outset. Although the FEA accepted the Telegraph’s rejection of the applicant as being over qualified for the post and made a finding of “no discrimination” a further enquiry was conducted in March 1980. This showed that out of the total workforce of 814 the main NI daily employed 18% Catholics. Most of these were in Classified Advertisements (25 out of 76) and Accounts (28 out of 77). In the production department where the print unions ran a closed shop 14 out of 295 staff were Catholic. The Belfast Telegraph defended this on the grounds that “as the industry itself is, for whatever reason, mainly Protestant in its workforce, it follows that most of its Production workforce will be Protestant”. They absolved themselves of any responsibility even though the non-printing part of production employed 72 workers that included two Catholics.¹⁸ This data was available to the FEA and became part of the internal struggle to achieve forceful action and publication. A report was finally published in September 1983

Secrecy prevented Warne Surgical in Lurgan, with a reputation as a Protestant employer, from demonstrating that 40% of its 220-250 workforce were Catholic. It prevented Town and Country Fuels from explaining the majority of its drivers were Protestants. It prevented Abbey Meat Packers responding publicly to complaints by Protestants of discrimination that 108 of its 209 workers at Whiteabbey were Protestant. It allowed Scottish Widows Fund and Life Assurance to promote a caring image in advertising while its 29 Protestant workers at Belfast, subjected the only Catholic to 18 months of racial and sectarian harassment. She resigned distraught with her doctor confirming she was not fit to work.¹⁹

It is a common place that to educate requires an engagement in some form of discourse. Debate, questions, answers, can assist in the promotion of public confidence, and contribute to the exposure of positive and negative examples. Oppressive acts can become accountable for the employer and public enforcement body via such discourse while

¹⁷ Hansard, 2nd May 1988; FEA Case file 1979 and Fourth Report of the Fair Employment Agency, 1st April 1979-31st March 1980, Case No.136, Belfast HMSO, 7th May 1981. FEA Board Minutes, 38th Meeting, 11th December 1979 & 40th Meeting, 12th February 1980.

¹⁸ FEA Section 12 Investigation into Belfast Telegraph Newspapers Ltd. September 1983.

promoting a process of change and accommodation. By opting for an extremely low profile and silence it may be argued that the FEA contributed instead to the promotion of prejudice, suspicion, and intolerance. In addition it may also be argued that such actions and too much concern with the political consequences of an enquiry was no more than to acquiesce in individual acts of discrimination. An early example in 1978 involved Mike Farrell, a leading civil rights figure at the time employed by Belfast Technical College. Since then he has written such books as the *Orange State*, and *Arming the Protestants*, and numerous articles for academic journals and national newspapers. In 2000 he became a Human Rights Commissioner for the Irish government. Farrell's complaint was the first of several to be lodged against the college. The evidence gathered supported Farrell's contention he had been deliberately passed over for promotion in favour of a less qualified candidate. The public problem for the Agency chairman was how to deal with this given Farrell's high profile as a civil rights activist and reputation as a Marxist who supported a united socialist Ireland. To make a finding of discrimination would have in effect meant the FEA accusing college representatives and the Board of Governors with perjury in the light of the evidence they gave. The chairman asked the Agency research officer (the author) to look at all past promotions and applications since 1974 to see if some other explanation than discrimination could be discerned. None was apparent. Cooper felt he had on balance to accept the college view in 'good faith' at Farrell's expense. The conclusion was that this was "found to be a most difficult case to decide" although "the Complainant was arguably a more suitable candidate than the successful applicant in terms of academic qualifications, academic publications, overall teaching experience and staff seniority".²⁰ An attempt to sack Farrell by the college had been made in 1973 when he had been interned and thereby missed two days of the academic term.

The defence offered by the Board of Governor's rested on the unusual claim for an academic institution that teaching experience and academic qualifications were only nominal requisites for promotion. Instead the college stressed attendance at social functions such as Christmas parties were considered more important. A member of the appointment panel claimed he was unaware of Farrell's political activities. This was quite remarkable given Farrell's frequent appearances on local TV news and features and

¹⁹ FEA case files:- 30th March 1979, 6th March 1979, 17th July 1979, 24th October 1979, 38th and 42nd FEA Board Meetings, 11th December 1979, 15th April 1980.

²⁰ *Third Annual Report of the FEA* . 1978-79, p.62, 63, Case No.88, HMSO, 13th March 1980.

numerous press articles by himself.²¹ The wheel came full circle however in 1984 when a prominent loyalist, Major Bunting, who in his day had assisted Paisley ambush civil rights marchers at Burntollet accused the college of discrimination. Bunting felt the "Unionist party hierarchy", were forcing him to pay the price for his alliance with Paisley. Although he lost the case, the FEA were obliged to note that the College had still failed to act on its recommendations to "find a solution", to the absence of any selection system as it had recommended in 1979. The college did not consider it had a problem.²²

In another case involving the post office, it took six years for the FEA to settle the case. An older Catholic was turned down for a job at a local office near Coleraine. The reason given was he was already employed and aged 43 could only have offered 17 years service before retiring as opposed to the successful candidate who was aged 22. The complainant was informed of his lack of success a full month before the successful candidate was told he had got the job. A previous incumbent had been killed by the Provisional IRA. The Head Postmaster in Coleraine confirmed no Catholic had ever been employed at the office. He did however attempt to offer a temporary post once, but the person happened to be out when he called at his home. The job went to a Protestant who happened to be in.²³ At a more general level the FEA had to accept the policy of the Post Office in denying employment to former internees. This policy first came to light in 1978 when an ex-internee passed the aptitude test but was denied employment. The Post Office explained, "it would not be prudent to recruit anyone who could be regarded as a security risk", and this was "not because of any political beliefs".²⁴ Thus those who had been arrested under draconian powers and denied any right to a trial, to challenge any evidence or suspicion leading to their internment found that upon release they were condemned to long term unemployment.

By May 1988, just before the Act's demise, the FEA had submitted 51 appeals to the County Courts. Of these 21 were settled out of court, in 10 the original findings of discrimination were upheld, and in the case of one individual and nine employers the courts overturned the Agency's decision. Of the 14 cases where employers saw the legal proceedings through, only five findings were upheld. As the courts represent critical

²¹ FEA, *Farrell v Belfast Technical College*, 1978-1979.

²² FEA, *Bunting v Belfast Technical College*, 1984.

²³ FEA *Fourth Annual Report*, Case No. 82.

mechanisms for developing or impeding any law, and the development of public debate, in fact the only mechanism during this period, it will be useful to illustrate their role with reference to several cases.

Before the courts.

The first case before the local courts encapsulated all the essential elements that make up life in the North. The aggrieved was a 23 year old Catholic graduate Ms.Doris. The respondent was the NI civil service in the form of the Petty Sessions Office at Cookstown. Doris had applied for the job as a clerk in November 1976. She made a formal complaint to the FEA on 25th January 1977. The FEA made its finding that unlawful discrimination had taken place on 18th October 1977. Judge Kenneth Topping presided at the County Court appeal in 1978. A former Stormont Minister he had a reputation as an ardent unionist. Doris carried the added burden of having a brother who had been president of the NICRA. The manager of the local social security office, one of the panel members made a point of bringing this to the attention of the others. They recorded their "dislike of her manner" and offered the job as a clerk to a 17 year old without qualifications or experience. In the evidence first presented to the FEA, one panel member said he marked her last, because she made "a constant effort to be polite but the facade would drop and she bordered on the aggressive". For good measure, he added, the fact her application form indicated she went to a Catholic school and had two Catholic Christian names "would not have been a strong indication to him that she was a Catholic".²⁵

Judge Topping found in favour of the civil service. His extremely brief two page judgment criticised the Agency for being "unduly anxious to find discrimination", and "In my opinion the Fair Employment Agency, probably convinced that this attitude was expected of it, appears to have gone to considerable lengths to reach a finding that unlawful discrimination had taken place".²⁶ Topping died three weeks after the appeal. The Agency's lawyers did not urge an appeal although they considered Topping's judgment "is very scanty and lacking in quality in that it avoids any discussion of the Act itself or the concept of discrimination". They also considered his comments were "

²⁴ Post Office to FEA, 1978, Case No. 83/78, *Fourth Annual Report*, 1979-80, HMSO, 13th March 1980.

²⁵ FEA *Second Annual Report*, 1977-78, pp.29,31,33, 27-35, Belfast HMSO, 13th June 1979.

²⁶ Judge Topping *Finding*, 1978.

confused (and incorrect in law)" with references that were " a gratuitous and unjustified slur" on the Agency.²⁷ Matters along with Topping were allowed to rest. The Agency was left becalmed as staff felt the failure to challenge Topping struck a body blow leading to an extreme state of inertia and reluctance to vigorously enforce the law.²⁸ Nationalist frustration at the lack of progress in the courts was further exasperated by a number of high profile victories by Councils they considered to be sectarian.

Armagh Council members, for example, publicly tore up the Act and refused to support equal opportunity codes practice and legislation. Craigavon Council had a high profile as an extreme loyalist council and was accordingly the subject of constant allegations of discrimination by Catholics. They accused the Council's elected members of establishing Unionist majorities on interview panels to give jobs to Protestants even when unqualified. One case, Timothy Duffy, began on the 15th September 1977 and was not settled until 1983. The FEA made a finding that the Council had unlawfully discriminated against Duffy for the post of an outdoor recreation officer in 1978.²⁹ Although Duffy, a Catholic, was marked by the majority of the panel to have superior qualifications and experience only one of the panel voted for him, five against, including the chief recreation officer, with two abstentions. The FEA concluded the process showed that the cause of a change of mind, "was religious prejudice on the part of certain powerful Council members which had induced the Chief Recreation Officer (Mr.Scott) to recommend the inferior candidate".³⁰ The successful candidate was a former gardener to the late Lord Brookeborough, a former Prime Minister for NI.

Duffy was asked, "Are You Loyal" by Alderman Wright the chair of the interview panel. DUP Councillor David Calvert, who arrived half-way through the interview and played no active part strongly opposed Duffy. Scott was identified as the "prime mover", along with Councillor Calvert. Judge Russell at the Armagh County Court threw out the case. He accepted Duffy was the better candidate but suggested he was "perhaps too ambitious to progress quickly". He also accepted that Councillors Calvert and Wright were determined Duffy was not "to get the job under any circumstances". While raising questions as to Scott's marking the judge exonerated him from any "wilful injustice to Mr. Duffy".

²⁷ Letter of 14th June 1978 from Elliott Duffy Garrett Solicitors to FEA Chairman.

²⁸ See 'Dissension in the ranks', below.

²⁹ FEA *Finding*, 27th November 1978.

Russell concluded his judgement stating:

"If the Agency's findings had been that the individual persons had been guilty of unlawful discrimination I could readily have understood why the Agency came to such a finding but no evidence was placed before this Court to how or why the Council which consists of 25 or 26 members should be affixed with the prejudice of two Councillors."

The responsibility of the Council as a body in law for the actions of its members was ignored. He also suggested the actions of Councillors Calvert and Wright may not have been to due to prejudice but "an unclear or incorrect recollection of the circumstances under which Mr. Duffy left the Councils employment in 1976".³¹

At the Court of Appeal (NI) chaired by Lord Chief Justice Lowry in June 1980, the original finding of discrimination was confirmed with £25,000 costs to be paid by Craigavon. The Law Lords found the judge had erred in law on three important counts, the exoneration of Scott was discounted, as "Everything Mr.Scott did at the meeting was consistent with his subservience to the ends of Messrs. Wright and Calvert". In fact "there was no truth in evidence", that they were not motivated by prejudice. Russell had also erred by failing to appreciate "The Council is in law responsible for the discrimination of the panel".³² This is an extremely basic legal concept as to public accountability that should be familiar to every local authority councillor and employee. It would require further court action to oblige Craigavon to pay £3000 compensation to Duffy in 1983.

Craigavon Council and Mr. Scott were to appear in the County Court again on further charges of unlawful discrimination. Pat McGahan a colleague of Duffy's working in the same department had been dismissed for failing to accept a change in duties as he felt they represented a downgrading. McGahan alleged this was because he was a Catholic and that of the 24 staff employed at this level none were Catholic. He accused Scott as "being the main instrument against him". Scott in his evidence when asked by Judge Doyle if discrimination existed in Craigavon, stated, "he hadn't found it, nor could he say that the Council was discriminatory".³³ He did accept however he had been appointed over the

³⁰ FEA *Third Annual Report*, Case 44, pp.37/38; *Fourth Annual Report*, pp.15-16.

³¹ All quotes taken from Judge Russell QC, Armagh County Court, September 1979, *Craigavon v FEA*.

³² Lord Lowry Lord Chief Justice, Court of Appeal in NI, *FEA v Craigavon Borough Council*, 30th June 1980.

³³ Judge Doyle, County Court Judgment, *Craigavon Borough Council v FEA*, 24th June 1981.

head of his former boss, a Catholic to his current position for which he had no comparable qualifications. Judge Doyle after a detailed assessment concluded discrimination had not taken place. His finding noted:

“The truth unfortunately is that his original employment prior to his employment with the appellants had been of a manual nature, that his experience, education and background suggested that he was fitted and indeed adequately fitted for such employment but was very far from being a suitable managerial prospect. He conceived as I have indicated an idea that office routine, office work, deployment of staff and authority in relation to staff was his field although there is no justification in his make-up or background to enable him to come to such a conclusion. It became a phobia with him”.³⁴

When Scott retired in October 1980, he said of the FEA, it "degrades the people of Northern Ireland - it drags down the sense of dignity of everyone, and could well be done without". The vagaries of the courts in the other direction may be captured in decisions against nationalist councils. Newry and Mourne was found guilty of "benign discrimination", by the FEA. The council in an attempt to balance its workforce appointed a Protestant against an equally qualified Catholic. Newry and Mourne's appeal to the courts in February 1981 was upheld. Judge Rowland concluded the gap was so narrow and the decision so subjective, he was obliged to give them the benefit of the doubt. However the political and legal point being pursued by the FEA was that positive action strategies were illegal and should not be adopted.³⁵ A similar example concerned Derry Council. As in Craigavon the case involved a recreation officer, Mr.Seddon, this time a Protestant. Again there was another equally qualified candidate, Mr.McCaul, a Catholic. Both had been recommended by the staffing committee for internal promotion to Deputy Chief amenities officer. McCaul got the job. In a 48 page finding the FEA concluded "the change took place because of religious factors" as the:

"non-unionists realised that if they accepted the advice of the Chief Amenities Officer, three of the four deputy posts would be held by Protestants in an area which a population that was two-thirds Catholic, and that politically speaking this was unacceptable in view of past history".³⁶

Judge Hart at Derry Recorders Court, rejected the FEA's case as one "based on inferences", as opposed to the express statements made in the Duffy case. The balance of

³⁴ Ibid. p.14.

³⁵ FEA *Fifth and Sixth Annual Reports*, 1980-81, 1981-82, HMSO.

³⁶ Notice of *Finding*, FEA, 10th December 1985, p.46

probabilities weighed in the Council's favour.³⁷

The Agency's first annual report placed "considerable importance on the education function" as great faith was placed in "a commitment from both sides of industry" and the general public with a lesser role for the law in developing equality of opportunity.³⁸ Later annual reports noted an "individual has to overcome a number of social and psychological barriers before the Agency is made aware that a grievance or potential grievance concerning religious discrimination might exist".³⁹ An individual had to be particularly determined and or well supported to bring a case. The added context of potential assassination and intimidation was not to be lightly dismissed during these early years by accusing one's employer and colleagues of discrimination. This placed an even greater onus on the law to demonstrate due consideration and sensitivity as the law developed through these cases. The decisions by the like of Judges Topping and Doyle did not secure this. The mixture of class prejudice and identification with the Stormont regime was unfortunate. While the legal establishment may feel the law must always take its course a period of almost seven years for an individual to secure £3000 compensation was unlikely to inspire confidence in procedural mechanisms the state claimed were there to provide redress. Justice was not seen to be done. In addition the absence of case law simply compounded the difficulties for advocates, representatives and judges. It was not until the impact of the 1981 Hunger Strike and decision by Republicans to adopt highly interventionist strategies to challenge the British state locally and nationally on equality that the issue became more vital.

The FEA's emphasis on education created a culture of conciliation and *understanding* of the employers position without a corresponding understanding of the need for swift redress for the individual. The lack of confidence in the FEA as a potential source of redress was not helped by the plain fact it contained a representative of a strongly hostile loyalist paramilitary group on its complaints panels. Finally the culture and ethos that had produced a judiciary whose senior judges were Protestant and identified with Diplock no jury courts, internment and the application of the Special Powers Act presented ready confirmation for nationalists that the British state agenda was inimical to their interests.

³⁷ Judge Hart QC. *Judgment*, January 1986, Derry City Council and the FEA.

³⁸ FEA *First Annual Report*, 1976-March 1977, p7, HMSO.

³⁹ FEA *Third Annual Report*, 1978-79, p.23.

The British government had indeed failed to introduce due process that enabled the development of swift, transparent and informed justice. It also failed to challenge the legal executive in NI during a critical period or question the fact several leading judges were Orangemen, former Stormont MP's or with a record of sectarian utterances. The responsibility to drive forward an equality agenda was great in this context. It failed to do so in many aspects of its administration including the law.⁴⁰

Section 12 of the 1976 Act provided a powerful tool for the conduct of formal investigations that could lead to strategic remedies. No equivalent power existed in the Race Relations Act. Section 12 was critical as the initiative lay with the Agency and could lead to action in the County Court if a company failed to implement any recommendations. Several investigations are presented to demonstrate how this power was subverted.

The Engineering industry.

The history of engineering employment in Belfast has been violent and intimidating for Catholics. There was a general anticipation some of these companies- especially Shorts and the shipyard would be the subject of early enquiries. Within the FEA proposals to do this were made in July 1977. Cooper, the FEA's chairman, opposed this and argued these firms should be 'examined' and not subjected to formal investigations. He considered the management and workforce of firms such as the shipyard were, "ready to welcome more liberal recruitment but this was militated against not only by the environment but also by a contracting labour market situation".⁴¹ This was in line with his strategy that "individual firms should not be put under the microscope right at the outset", adopted at the FEA's second board meeting.⁴² It was another seven years before such firms were put under the "microscope", i.e. a proper Section 12 investigation.

The concept of "examination" became a major impediment to operational progress. An examination did not have the status of a formal enquiry. It could not lead to any formal findings or binding directions upon employers. It was in effect an 'understanding' without

⁴⁰ Belfast Bulletin No.10, Spring 1982, *Workers Research Unit*, Belfast, see pp.21-31 for the origins of many of NI's senior judges and Belfast Bulletin No.11, Summer 1984 for details on the *Supergrass* system.

⁴¹ FEA Board *Minutes*, 10th May 1977.

fear of any redress. In embarking on this ‘examination’ the range of jobs to be studied was restricted to certain skilled engineering trades. This meant for example only 60 out of the 1700 employed by Standard Telephone and Cables (STC) would be scrutinised. The study lasted six years with an extremely vague report being published in September 1983.⁴³ The report did not identify the firms, nor was any analysis of their employment patterns or recruitment practices presented. Instead a series of census tables were reproduced indicating patterns of employment in Belfast. The following table is a useful benchmark for measuring progress in engineering. Taken from the 1971 Census it shows the distribution of skilled engineering jobs and the need to carry out a comprehensive analysis rather than the partial approach limited by a voluntary examination. If progress was being made in a critical area of traditional dominance it may have signaled that the Agency’s belief that employers were well disposed to equality of opportunity had some justification. If on the other hand a comprehensive analysis demonstrated the opposite the figures may have been utilised to achieve a more effective legislative framework and resources beyond the eight Agency staff deployed. In short the scale of the task would have been apparent. The focus on a narrow range of occupations over a six year period proved unproductive both in terms of the credibility of the Agency, its internal coherence and its capacity to take forward an equality agenda. It also failed to achieve a positive outcome on recruitment practices of those companies selected.

Table 1. 1971 Population Census for NI ⁴⁴ (Roman Catholic/RC; Protestant/Prot.)

SKILLED JOBS.	Total.	RC.	Prot.	Not Stated.
Engineering Foremen	27	0	26	1
Turners	545	51	450	44
Machine Tool Setters & Operators.	407	60	311	36
Toolmakers & Toolroom Setters.	325	40	264	21
Maintenance Fitters & Engineers.	1241	102	979	100
Other fitters & Machine Erectors.	3374	411	2711	252
TOTALS.	5919	664	4741	454

A further analysis of the religious composition for the Engineering and Vehicles category, wherein many of these occupations are, found Catholics represented 20% (4406) of the

⁴² FEA Board *Minutes*, 5th October 1976.
⁴³ *Report on Employment Patterns in the Belfast Area with Particular Reference to Engineering*, FEA 1983.

21,898 workforce. Thus the opportunity for Catholics to secure long term skilled employment and or pass the opportunity on through their families was slight when compared to their Protestant counterparts. These figures indicated the strength of a skilled working class Protestant heritage and the size of the challenge for any mediation in the market place. The data formed the basis for the investigation but was not utilised to establish objectives in terms of strategic findings and direction for the Agency nor to challenge the complacency and resistance of the employers 'under the microscope'.

During March and April 1977, Ford Autolite in West Belfast was accused of discriminatory practices by Peoples Democracy in its newspaper. Picked up by others it became a major story. Labour were then in power and the relevant Minister was Don Concannon MP. He, through his senior civil servant, Mr. Crozier, contacted the FEA on 25th April 1977. Senior Agency staff understood the approach had been to seek Cooper's support to play the matter down and avoid public controversy. Following further contact between Cooper and the department any specific investigation of Fords was rejected on 3rd July 1977, to be replaced by a general enquiry into engineering.⁴⁵ Cooper said this would be completed in 3 months. It would take six years. The scope of this examination was originally to include the total number of employees by occupation, the employment catchment area for each company and their methods of recruitment with particular reference to apprentices. Approximately 18 firms in construction and industry were to be examined.

Concannon reported his further alarm when he went on an investment seeking trip to the US where he reported "stiff opposition." The National Council of Irish Americans were running a counter campaign declaring, "If you're looking for trouble invest in N. Ireland", and "Political instability always breeds violence. A violent society never produces a healthy economy ... or profits."⁴⁶ The allegations against Ford occurred just as AVX, New York, manufacturers of electronic capacitors decided to establish a 600 job plant in Coleraine. AVX said their decision was based on "a get the truth mission", carried out by the wives of three senior officials. Concannon requested a meeting with Cooper to discuss "some aspects of the engineering enquiry". Following this meeting on the 17th January

⁴⁴ Census of Population, *Religion Tables*, NI, Belfast: HMSO 1975.

⁴⁵ FEA Correspondence with Crozier, 3rd July 1977.

⁴⁶ *Irish National Caucus* Publicity campaign, 1977, Washington, USA.

1978, Cooper reported back to the FEA board in February. He stated, "basically all that the Minister wished to make clear was the importance of Ford in Ireland, and the use the government is making of that company to try and encourage future investment. The Minister is anxious that the Agency's investigation should not cause any security problems".⁴⁷ No formal Section 12 enquiry was undertaken. Agency staff and at least two leading Board members, Bannon and McCormack concluded the Minister wanted any enquiry stopped lest it aid the Irish American campaign. This decision became a significant source of internal Agency conflict between the Agency Board and its senior staff (see Chapter 8).

The consequent absence of results by the FEA also made it difficult for the British government in the USA when confronted by the H Block protests and 1981 Hunger Strikes. Irish Americans and their allies focused in particular on the absence of any change in the employment practices of well known sectarian employers such as Shorts, Harlands, Sirocco, Fords etc. These were the very companies at the centre of the FEA enquiry. Due to the nature of the engineering “examination”, however and the ability of employers to stop progress a substantial body of evidence was simply not available. The missing names and religious composition from the 1983 FEA report are given below. Two companies, Grundig and Strathearn Audio were part of the investigation but closed during the enquiries long ‘hiatus’. Most firms refused to provide any figures for over four years. Tilley Lamp was the only one to monitor religion. In some cases, the ‘investigation’ was no more than a brief phone call, with employers confirming or denying their workforce was 98-100% Protestant.

Table 2, FEA Engineering Employers Analysis, 25th November 1980.

COMPANY	PROTESTANT		CATHOLIC	
	(skilled/apprentices)		(skilled/apprentices)	
Harland & Wolff	267	na	0	0
Shorts	931	90*	49	6
Hugh J.Scotts.	97	65	0	0
Mackie & Sons.	1000	331	na	69
Hughes Tool	53	7	7	na
STC	62	7	7	na
Davidsons(Sirocco)	145	10	4	0
Tilley Lamp.	13	3	5	na

⁴⁷ Board *Minutes*, 17th Meeting of the FEA Board , 10th January 1978.

Ford	82	18	8	12
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Shorts recruited 100 apprentices per annum. These refer to 1979.
na - not available or unknown.

This and other failures had a debilitating effect on staff morale leading to what became a fundamental schism between the senior operational staff (the Deputy Coordinating Director, the two Conciliation Officers and the Research Officer) and Cooper. They severely censured him for refusing to implement the Act and put forward proposals to complete the work in November 1979. They wanted the full powers of Section 12 to be used and where companies such as "STC, Hughes Tool, Ford and Grundig", continued to prevent progress they demanded subpoena's be issued.⁴⁸ Cooper rejected this and decided to muddle on. The companies would later accuse him, with some justification under the circumstances, of an act of duplicity. This was because having begun as an ‘examination’ attempts were made during the political maelstrom of 1981 to try and establish a Section 12 footing for any findings. In response to staff proposals to terminate the ‘examination’ and conduct a formal investigation into the composition of the workforces Cooper did accept, "it is not worthwhile seeking more information from Hugh J.Scott's and that we should accept Harland and Wolff's statement that there are, to all intents and purposes, no Catholics employed on the engineering side".⁴⁹

A year later a progress report (see table 2 above) noted that in the case of Mackies, "Out of 130, 1977 recruits (apprentices) 69 survived to May 1980". Shorts had failed to "encourage Catholic recruits" despite having a pool of 600 apprentices in a workforce of 2000. In Davidsons "there was a major problem of workforce hostility". At Hughes Tool trade union hostility was strong while Scott's in East Belfast only visited Protestant schools and encouraged a strong bible movement in the workforce. The following provides a more informed assessment than presented by the FEA.

“Deep Sleepers”.

At a meeting between FEA officials and the managing and personnel directors of Harland's, on 23rd November 1977 they expressed opposition to any enquiry while

⁴⁸ NIPSA B147 *Secretary Files*, Correspondence to Chair FEA, October 1979.

⁴⁹ Mr.R. Cooper, 16th November 1979 to FEA Research Sub Committee, *Engineering Enquiry Summary of senior Agency staff proposals*, 1st November 1979.

claiming the workforce was 15% to 20% Catholic. However they freely confirmed the Engine Works, especially the machine shop, which had a skilled workforce of "three figure strength (276)" was totally Protestant. If there were any Catholics they added, they would be "sleepers". Harland's felt, "the existing workforce would not accept Catholics amongst them".⁵⁰ Following this, the FEA "saw no reason to do any sort of compositional exercise since such an exercise might serve to expose one or two employees who hitherto had been accepted by their workmates".⁵¹

The prevailing environment within the company was demonstrated for the FEA when a Catholic careers teacher, Des Bannon, became a member of the FEA's Board. He sent two boys to the yard and two to Shorts for a weeks work experience in early March 1979. On the first day their religion was ascertained and they were followed to their bus stop home. On the second day when the other apprentices began singing "We don't want any fenians here", they left while the going was good.⁵² When the FEA sought specific details of the catchment area for engineering employees in 1977, Harland's replied three years later on 11th January 1980. Later in June 1981, the company cited the failure of Catholic school principals to attend annual apprentice prize giving days as evidence that its efforts were constantly rebuffed. They added, "in spite of these disappointments and despite a continuing deterioration of (the) employment prospects", they "would continue to try and widen the Company's appeal to the Catholic community". Harland also claimed its 1981 apprentice intake of 54 included 3 Catholics.⁵³

The FEA on the basis of their interviews in 1977 with Harland's management and subsequent correspondence referred to, concluded, "the Agency is satisfied that despite there being no deliberate intention to discriminate against potential Roman Catholic employees, Harland & Wolff limited does not provide equality of opportunity in its Engineering Works". They suggested Harland's monitor applications and set "itself a goal" of "not less than 10%" of applications from Catholics. Management and trade unions should also "encourage the development of an atmosphere at work which does not deter any new employee".⁵⁴ Harland's replied in an eight page letter demanding the clauses be

⁵⁰ Report of meeting between *FEA and Harland & Wolff*, 23rd November 1977.

⁵¹ FEA draft Report on *Harland & Wolff*., January/February 1981.

⁵² Report of Interview with pupils, FEA, 11th April 1979.

⁵³ Mr. Punt, Managing Director, Harland & Wolff to FEA, June 1981.

⁵⁴ FEA Report, *Harland & Wolff*, June 1981.

deleted including the failure to afford equality of opportunity. The managing director, Mr. Punt, accused the FEA of trying "to bring about an improvement in opportunity for, and an increase in numbers employed from the Roman Catholic members of the community", alone. Harland's believed, "this basis is in itself discriminatory". Punt asserted, "we firmly believe that we do give equality of opportunity for employment", and that to "categorically state(s) that we do not provide such equality of opportunity, is incorrect, unfair and potentially damaging to the Company. The main purpose of this reply is to have this statement removed from your Report".

Punt ridiculed the 'investigation', as a "single short meeting in 1977", and a letter in November 1979. He suggested "this is a very poor basis on which to formulate and justify a damaging report which has taken nearly four years to prepare". Punt rejected any form of religious monitoring as a "breach of their professional ethics", adding we "cannot force Roman Catholics to apply". Punt in conclusion suggested that if the FEA "modifies its apparent views" and "make recommendations that would be totally acceptable to the Company", then the subject of a written undertaking may be considered. The final part of the letter continued under the heading:

"WHAT THE COMPANY WANTS".

(a) We consider that the statement in the Agency's Conclusions that the Company does not provide equality of opportunity for employment is unsustainable and must be deleted.

(b) We believe that the report should state categorically that the Company does provide equality of opportunity for employment in all departments. We request that such a statement be included.

It is accepted that the number of Roman Catholics who take up employment opportunities does not reflect the effort made by the Company, and this could reasonably be mentioned.

(c) We believe that to ensure that a reader will form a true view of the situation it is necessary to record the positive actions taken by the Company. We request that these be incorporated in the report".⁵⁵

The FEA adjusted its final report on Harland's to faithfully reflect Punt's letter. The company's "considerable efforts to achieve equality of opportunity" were now noted. The finding that existing "employees would harden against accepting Catholics when at the same time prospects for their co-religionists or Unionist neighbours were deteriorating", was also omitted. The general FEA report on engineering published in 1983, reduced

comment further to one unidentified paragraph. The shipyard thereby was officially endorsed by the FEA as an equal opportunity employer. This was then utilised in bids for American contracts. Thus when a prime opportunity presented itself to demonstrate that an enforcement agency could challenge one of NI's most potent sectarian symbols the FEA declined to do so. In this they abrogated the responsibility to educate and combat discrimination. The wider population instead saw an agency supporting this employer in pursuit of contracts for Protestant workers and were denied the opportunity for redress against generations of sectarian employment practices.⁵⁶ This approach was carried right across the engineering sector as the FEA sought to bring the 'examination' to a close.

In the case of Shorts much of the material has already been covered earlier in terms of its employment practices and composition. However in terms of this "examination" it warranted an anonymous two sentence entry in the FEA's 1983 public report. The FEA first approached Shorts on the 18th November 1977. The FEA officer, a Mr. Peter Sefton, Co-ordinating Director, English Catholic and former Shorts employee conducted the examination. On his return from this visit he informed Agency staff he had been treated with contempt and lied to. He reported it was clear Shorts would offer no co-operation and were hostile to the FEA. At a later meeting in early 1978, Shorts personnel manager asserted, "religious belief was irrelevant", and "the Catholic members of the workforce were in no way harassed by their Protestant workmates". He claimed, management, "would not allow any sectarianism", and were unaware of any religious bias or intolerance in the plant. As reported earlier Shorts considered contact with Catholic schools "a waste of time". Their intake of 98 apprentices in 1978 for example included 6 Catholics only.⁵⁷

After two years of open refusal to co-operate, the FEA again urged Shorts to provide information on 20th March 1979. As this and further requests were ignored senior FEA staff demanded the chair subpoena Shorts. FEA board members such as Bannon and McCormack were also restless leading to numerous meetings with the chair. Cooper phoned the managing director, Philip Foreman late in June and advised him of the possibility of formal action by the FEA to subpoena the information due to internal pressure. Despite this no data was provided until 25th January 1980. This was limited to

⁵⁵ Mr. Punt Harland & Wolff to FEA Chair, 28th July 1981.

⁵⁶ Farrell, M. *Sunday Tribune*, Dublin, 28th September 1983, 'Harland & Wolff got agency to change discrimination report'.

information on 980 fitters. On this basis Cooper decided there “to be no necessity to seek further information” as the analysis showed them to be 90% Protestant. Mr.Cockram, Shorts personnel manager, demanded the FEA pay Shorts £450 for its co-operation. This represented a reduction from the original £2,700 demanded in 1979. Approximately 53 of the 980 fitters were Catholic. The unpublished FEA report criticised Shorts for “insufficient positive action to encourage Catholic recruits”, and “in the wider sense ... you fail to provide equality of opportunity”.⁵⁸ By July 1981, Shorts had still failed to reply. Instead they took up the matter directly with the Secretary of State.⁵⁹ At the end of February 1983, with the engineering examination still incomplete, the Irish-American campaign exploded in the US. When the final report was published in September 1983, Shorts as with the shipyard received a clean bill of health. The findings in the original report were deleted and the FEA’s endorsement was used to counter the campaign to prevent Shorts winning any USAF orders unless they changed their employment practices.

Hughes Tool was an American company manufacturing oil-drilling equipment. Established in NI in 1954 Hughes claimed to be an equal opportunity employer but refused to sign the Agency declaration. Its personnel manager, Mr.McCutcheon and the four main shop stewards representing TASS and the AUEW, proved hostile and obstructive when approached by the FEA. The managing director in 1977, Mr.Irwin, emphasised the company's obligations to comply with US policy as determined in Houston. The FEA ‘examination’ focused only on the religion of 26 skilled workers and 7 apprentices. Hughes Tool declined to provide any information for three years. The FEA discovered however that applications from job centres in Catholic areas were given "short shrift", and from then "progress with the enquiry was effectively blocked".⁶⁰

In a meeting with AUEW shop stewards, they expressed their belief in the "rights of a particular religious group to a particular occupation", and they, their sons and friends and relatives had a "right" to preferential treatment. This was endorsed by McCutcheon.⁶¹ With the unions and management blaming each other for the impasse, the FEA suggested it may use the courts to take action against the union. Eventually the matter was referred to the

⁵⁷ Shorts employment data.

⁵⁸ FEA *Shorts Report*, January/February 1981.

⁵⁹ FEA Research Sub-Committee papers July 1981.

⁶⁰ *Hughes Tool Report*, January/February 1981, and Report 3rd February 1982.

⁶¹ Personnel Manager, Hughes Tool to FEA Meeting of 15th February 1980.

US and in October a phone call from the personnel manager met the needs of the enquiry. He advised the FEA there were now 60 skilled men, seven Catholic. Thus over the period in dispute the work force had doubled without regard to equality of opportunity. Draft findings by the FEA stated, "your company is not providing equality of opportunity", and "Your works should provide an opportunity for Catholic employment, but apparently does not". The recruitment methods used within the context of its 3000 work force which "is predominantly Protestant must be a disadvantage for Catholics". The FEA report noted,

“Your factory is readily accessible from a wide area which is populated by Catholics as well as Protestants. Whereas other factories with Catholic and Protestant work people have been cutting back on their labour, your company has been steadily expanding. Your works should provide an opportunity for Catholic employment, but apparently does not The Agency believes that open recruitment would have resulted in 20% to 30% Catholic participation rather than the 10%”.⁶²

These comments were absent from the final engineering report published in 1983. Indeed only a passing anonymous reference to Hughes in a partial sentence is made. In 1986 Hughes Tool began to contract reflecting the world oil crisis and shut its branch plant at Monkstown. Another important manufacturer with a sectarian reputation second only to Shorts and the shipyard was Davidson's or Sirocco Works as it was better known. Founded in 1881 on a site at Bridge End just over the River Lagan, near to Belfast's city centre Sirocco Works at one stage, 1939, manufactured 70% of the world's tea drying machinery and fans. In 1971 it was taken over by Abercom's Investments, a South African company. As part of its fan division with other plants in Pittsburgh and Dearborn Michigan, it manufactures a wide range of industrial fans, air conditioning and dust collection systems. Since before 1881 there has been the only cohesive Catholic community in East Belfast on its door step in the Short Strand. Access was therefore not a problem. There is also a large RUC barracks nearby. The Bishop of Down and Connor as long ago as May 9th 1966 made formal protests on behalf of his Catholic flock to Sirocco. His correspondence with the chairman, Mr. Maguire was subsequently published in the Irish News on 28th May, 1966. At this time between 1 to 4 Catholics were employed in the 1500 work force. Maguire accepted "there are indeed very few Catholic", which he attributed to the fact Sirocco recruited from the immediate Protestant streets, "since the earliest days". He added "Catholics probably do not feel at home in a Protestant atmosphere". At this time Stormont

⁶² *Hughes Tool Report*, January/ February 1981.

was attempting to sanitise the local “atmosphere” by a programme of slum clearance which had already forced 500 households out leaving 2000 adult Catholics and their families fighting to stay. This process was not completed until the late 1980's leaving a reduced but still significant Catholic community in the Short Strand.

The Bishop replied to Maguire noting:

"your firm has been regarded by generations of Catholics as a symbol and concrete evidence of the economic and social injustice they have had to suffer for many generations in this city. There is a tradition here of 'No Catholic need apply'".⁶³

On the 5th November 1979 the FEA concluded its "Enquiry was complete and written as at 1977/78". The three or four Catholics in the skilled work force of 250 were attributed "to the hostility of the work force itself".⁶⁴ At the time of the FEA's final report in 1983, 850 were employed and the firm had a healthy sales turnover of £16.9m.⁶⁵ When Abercom took over Davidson's in 1971, 1300 were employed. The three Catholics started in 1973 following a brief foray into the local Catholic community which management in their own words rapidly abandoned. The status quo had remained unchanged since 1966.

The managing director believed the absence of Catholics was due to the alleged activities of "certain small extreme elements in the neighbourhood population (which) provoked hostility with the work force". Recruits for apprentices were "often the sons of existing employees", or drawn from the two predominantly Protestant government training centres at Feldon and Dundonald in Belfast. Cooper adopted a sympathetic approach and concluded "that through no fault of the present management, equality of opportunity is generally not afforded". He also expressed the hope that the expansion of the works then taking place would produce "a change in attitudes within your work force, and a greater willingness to offer themselves for employment on the part of the surrounding Catholic population".⁶⁶

He added, establishing local community links may "breakdown the prejudice which causes

⁶³ *Irish News*, 28th May 1966.

⁶⁴ FEA *Davidson and Company Ltd.*, FEA Report, 5th November 1979.

⁶⁵ *Stock Exchange Official Year Book*, 1983 London.

⁶⁶ FEA *Davidson and Company Ltd.*, FEA Report, 5th November 1979 and 3rd February 1982.

these people to believe it is useless to apply". In the interests of "balance", he said, "At the same time the local Protestant community would have to be aware of what work was available and they have to be given equivalent opportunity for consideration as their Catholic neighbours".⁶⁷ In the FEA's ninth annual report Cooper referred to this as an "affirmative action programme" at an unnamed company.

The FEA did not analyse why no changes had been achieved in the attitudes of the work force since 1971 or in the patterns of employment nor why the management accepted the prevailing Protestant climate and symbols at the expense of equality and fair access. In response to an equality campaign in 1984 by the Irish National Caucus, Davidson's company president claimed many Catholics "have now risen to senior positions in the company". In support of this he said, "8 people from the Short Strand area are employed in our plant".⁶⁸ As employment was down to 550, this gave a Catholic ratio of 1.45%. Against the FEA's view that Catholics needed to overcome their prejudices to gain employment stands the Bishop's comments to Sirocco in 1966. They do not appear to have lost their force over time. "I find the implication that you can and should do nothing to correct the extreme form of religious discrimination for which your company is responsible a matter of grave concern". In the late 1990's Sirocco moved to a new site away from the Catholic Short Strand while retaining the site as its car park.

Another major international investor was Standard Telephone and Cables (NI),STC, who were part of the American International Telephone & Telegraphs Corporation. With government grant aid factories were established at Monkstown in 1962 and Enniskillen in 1965. Employment peaked in 1984 at 2000 with proposals for another 500 jobs due to investment in optic fibres and lasers.⁶⁹ At the time of the FEA's initial contact in 1977, 1700 were employed of which around 60 were classified as skilled by STC. The company considered the workforce was 85-90% Protestant. STC workers proved hostile to any enquiry. The general manager claimed the AEUW trade union representatives refused to "allow the Company to provide the information requested". STC predicted the demand for

⁶⁷ Ibid.

⁶⁸ Patterson, John.R. President Davidson to Father Sean McManus, National Director INC, 13th June 1984. By 1992 Sirocco (now Howden Ltd) claimed there were 19 Catholics employed in its 408 workforce. By 1994, this was down to 13 out of 240 workers. FEC *Monitoring Returns* 1995.

⁶⁹ Fall in demand however, led to 300 job losses in May 1985 and further redundancies in 1986, leaving the work force at 1440. In June 1990 the Secretary of State opened STC's new telecommunications engineering centre at Monkstown with public support via the IDB worth £13m. NIO, 3rd January 1986;*Belfast Telegraph*

skilled workers was "was steadily decreasing" as mechanical engineering skills were rapidly being replaced with electronics. Recruitment policy rested on using "people with relatives already employed in the company". Twenty buses were laid on to ferry workers to the factory and advertising was rarely used. STC accepted the "proportion of Catholic workers in the company had reduced somewhat since the troubles started". This was attributed to "movement of Catholics away from strongly defined Protestant areas and the reluctance of others to travel into the area of the factory".⁷⁰

Matters rested there until the FEA renewed its enquiry on the 16th January 1980. This elicited information that of the 69 skilled tradesmen employed at March 1980, approximately six or seven were Catholic. The FEA's 1981 report to STC suggested that recruitment efforts be made to overcome the influence of recommendations by existing employees. This met with a scathing rebuttal from Mr. Fulton the personnel manager. He dismissed the report as "based on rather dubious evidence". Fulton pointed out that Cooper, in his original letter of 8th November 1977, had "emphasised that this is a general enquiry into the overall picture in Belfast". Fulton in turn stressed, "At no time since the date of that letter, either in correspondence or in conversation, was there any indication that your Agency was carrying out an individual investigation into the company or that an individual report would be issued. We feel that we have been singularly misled in this respect". With reference to any objective of increasing opportunities among skilled workers STC noted: "the requirement that this company will have for this type of tradesman in the future will be non-existent. This must cast some doubt on the practicality of your proposed recommendations".⁷¹

In reply Cooper said, "it was always envisaged some sort of report would result".⁷² STC's grievance had some justification. The FEA had failed to exercise its responsibilities in a timely and proper manner. It was now perceived to be responding to the massive nationalist protests surrounding the Hunger Strike and its consequences rather than carrying out a professional and impartial exercise. The FEA final report concluded, "there is no deliberate intention to discriminate against Roman Catholics" by STC.⁷³

28th June 1984; *Irish News* 18th May 1985.

⁷⁰ FEA meeting with STC Mr. Fulton Personnel Manager and General Manager, 24th November 1977.

⁷¹ STC. Mr. Fulton, to FEA 23rd June 1981.

⁷² FEA to STC, 1st July 1981.

⁷³ FEA *Report STC*, 3rd February, 1982.

The pattern of refusal to co-operate, a failure to accept responsibility for the issue, open hostility to equality by the trade unions was common across the engineering industry in Belfast. Sectarian recruitment practices especially via the vehicle of the existing workforce were regarded as the best way to maintain local employment traditions. Mackies, for example as a manufacturer of textile machinery with annual turnover of £30m provided employment to generations of Protestants. A family firm, it took some public pride in its "Protestant atmosphere". Subject to the normal ebb and flow of demand workers were laid off and recruited again with ex-workers "Especially welcome to apply". Mackies estimated, they were 90% Protestant. Situated on the Springfield Road, the factory was readily accessible to the Catholic population of West Belfast. Mackies openly opposed equal opportunity legislation and refused to provide any information to the FEA or sign the equality Declaration. It eventually signed the latter as part of wider process of selling the company eleven years after the enactment of the Fair Employment Act. Loyalist emblems, flags and the Orange Order were a significant presence in the factory. Its directors had worked their way up from lower management and recruitment was conducted through friends, relatives and contacts. The FEA was able to conclude that "whereas in the past your company has not encouraged recruitment of Catholic tradesmen, there has been a shift of emphasis over recent years". There was no evidence to support this statement. Indeed in May 1987, a Catholic's complaint of discrimination was upheld due to Mackies' refusal to remove intimidating loyalist displays and emblems.⁷⁴

In August 1989, Mackies chairman resigned breaking a 150 year old family tradition as the company entered into negotiations for a buy out by the American company Lummus Industries, from Columbus Georgia. Initial proposals to move site and the remaining 950 workers to the staunchly Protestant Woodvale in East Belfast, were changed to a parkland setting following a £20m modernisation deal with the Industrial Development Board.⁷⁵

A final engineering example is Hugh J. Scotts another family engineering firm. Located on

⁷⁴ FEA *Report on Mackies*, 1980, 1981, 3rd February 1982.

⁷⁵ NIO, 4th April 1990. Mackies 1992 workforce of 626 included 84 Catholics. By 1994, this was down to 80 out of 354 workers. (FEC 1995) Lummus sold its interest for a nominal sum to one larger than life Pat Dougan. Richard Needham MP and minister poured IDB funds into a rescue package. When Bill Clinton visited Belfast in 1995, following the IRA ceasefire, he chose Mackies to make a keynote speech for peace. "The textile machines you make permit people to weave disparate threads into remarkable fabrics. That is now what you must do here". This aspiration however became lost in its own threads as Mackies went into

the Ravenhill Road it employed Protestants from East and South Belfast. It was also within walking distance or a short bus ride for Catholics from the lower Ormeau and Short Strand. Scott's attracted two sentences in the FEA's published report, albeit shared with another company in the FEA's anonymous fashion. This did however reflect the extent of the FEA's investigation. Scott's refused to endorse equal opportunities and its directors made no bones about their contempt for the FEA. One director, Mr. Bolton, while confirming the work force was 100% Protestant, claimed "he and the rest of the management did not enquire into the religious beliefs of their work people". Bolton said there had been Catholics employed, "but generally they only stayed a few hours before finding some excuse to leave". He added "there was a strong Bible study movement within the company which was not unwelcome to the Management".⁷⁶

Any recruits were obtained from the company's wider "Protestant family". The local engineering unions also played a critical role in ensuring jobs went to Protestant trade union card holders. The FEA investigating officer, in this case the Deputy Director for the FEA, Mr. Sefton, concluded, "Some major inducement such as enhanced profitability, or the threat of much reduced profitability would be necessary to provoke any real interest in an equality of opportunity programme," by Scotts.⁷⁷

The final unpublished report in 1982 however deleted this and "accepted the assurances given that Hugh J.Scotts Ltd., does not deliberately discriminate against Roman Catholics". Scotts was asked as "far as is practical and expedient", to use "its best endeavours to find practical means to persuade its existing work force to accept the need for equality of opportunity including direct discussions when this is deemed to be productive".⁷⁸ In 1981, employment dropped to 300. The company was later wound up and taken over by a Danish concern.

Conclusions.

One of the remarkable features of this six year enquiry into engineering employment in Belfast was the fact none of the companies were found guilty of failing to afford equality

receivership in February 1999 leaving the remaining 350 workers to weave their way to the dole.

⁷⁶ FEA meeting with Scotts Managing Director, 24th November 1977.

⁷⁷ FEA *Draft Report, Scotts*, January/February 1981.

of opportunity. This stood in marked contrast to their history, local reputation, the activities of their workforce and the evidence found. The above demonstrates several principal points of the thesis. The first that inequality of opportunity in employment remained and was endorsed by management and workforce alike. This Protestant ethos permeated every facet of employment and created expectations and aspirations directly associated with Protestant identity and loyalty. Secondly that in terms of convincing nationalists or Catholics that Stormont and then Direct Rule could provide fairness and equity in the field of employment the government and its agents were unable to provide significant evidence of progress. Thirdly despite overwhelming evidence of sectarian inequalities in patterns of employment and the individual practices of significant public and private employers, the government chose not to utilise its vital role as a primary source of financial aid, support and investment, to oblige key industries to reverse or challenge such inequalities. Fourthly the administrative agency created by the government to promote equality of opportunity and challenge those that discriminated completely failed. This failure may be attributed to a mix of poor leadership, the absence of political will and indeed opposition to challenging the source of such inequalities within the Agency and the fact government was content with such failure. Finally by the mid 1980's the FEA and central government were fully aware no fundamental progress had been made in terms of creating a greater access to the labour market nor had any significant public or private employer embraced the ethos and practice of equality of opportunity. Thus the legal mechanisms introduced to ameliorate the market and give it credibility in nationalist eyes had singularly failed against the rocks of a Protestant heritage in employment. While the political approach would become more sophisticated in the late 1980's and 1990's in response to Irish-American pressure, at this time the only real challenge to this state of affairs came from Agency staff themselves. The next section elaborates on their role and failure to achieve change from within.

Dissension in the Ranks (ii).

Introduction.

Internal dissent within the FEA reflected the wider tensions within NI. On the one hand

⁷⁸ FEA Report 3rd February 1982.

there was an Agency Board and Chair who made it clear they considered employers were doing a great deal already and that conciliation not investigations coupled with an incremental strategy was the way forward. The FEA stressed education would be the major tool for achieving change in the attitudes and practices of employers and employees rather than law enforcement.⁷⁹ On the other hand were a group of the four most senior staff directly responsible for research, policy, individual complaints and formal investigations. Their agenda was that in face of the civil conflict, sectarian murder campaigns and a history of deliberate inequality in employment it was absolutely vital to achieve results by fully implementing all aspects of the 1976 Act. Their aspirations included for example the full utilisation of Section 12 powers to conduct formal investigations; tackling intimidation on the shop floor and the use of Section VI to subpoena information and impose injunctions via the County Courts. They felt sectarian employers should not be included on the Register of Equal Opportunity Employers; findings of a failure to afford equality of opportunity where this was justified should be made and employers denied access to government contracts and removed from the Register. In short there was an enthusiasm and strong personal commitment to meet the challenge of tackling discrimination in employment. As they constituted four of the six operational staff directly responsible for implementing the law matters became fraught when a perception developed that they were being victimised for seeking to carry out their duties and the conclusions of reports were being radically changed, decisions not communicated and access to meetings and minutes denied. In addition there was the presence of a very active trade union branch that had already played a leadership role in achieving fundamental reforms of the local Equal Opportunities Commission. This had led to the NIC (ICTU) withdrawing its membership from the EOC Board until it was agreed by the EOC it would use its investigative powers and call employers to account.⁸⁰ The Branch Chairman and Branch Secretary happened to be two of the four senior Agency staff.

⁷⁹ FEA *First Annual Report*, 1976-77, p.7, 30th November 1977, Belfast, HMSO.

⁸⁰ NIPSA Branch 147 Files; and a review carried out by Christopher McCrudden, Balliol College Oxford, for the NI EOC, *The Sex Discrimination (NI) Order 1976 and the EOC for NI*. The FEA employed five senior officers and an assistant to enforce the law. This excluded an executive chairman and seven administrative staff. The author was Research Officer and Branch Secretary. Its worth noting, as these things are important in NI, that the religious composition of the four staff were two middle class Catholics and one East Belfast Protestant and another residing in East Belfast but originally from North Belfast. The other two operational staff were the Co-ordinating Director, an English Catholic and a Employer Liaison Assistant who was also a Catholic from Belfast.

These staff (the Deputy Co-ordinating Director, Research Officer and the two Conciliation Officers) accused the Agency of what amounted to maladministration and the effective repeal of the 1976 Act by failing to find failures to afford equality of opportunity, “against any company, public body or any organisation in Northern Ireland”; a failure to follow up evidence and provide directions to employers to adjust employment practices or remove anyone from the equality Register; preventing officials from using the full range of enforcement powers, and political victimisation against Agency staff.⁸¹ On the 14th November 1980 the local NIPSA trade union branch passed a resolution calling for “a comprehensive enquiry into the Fair Employment Agency”.⁸² This was followed up by a 23 point dossier submitted to the NIPSA General Secretary, Jim McCusker, and the Minister of State, Adam Butler MP. The dossier concluded that:

“The general feeling within the staff is one of frustration and failure that the goals and actions of a body that was created to provide redress for some of Northern Ireland’s ills has been circumvented by the Agency as constituted leaving the staff with no confidence in the willingness or the ability of those chosen to promote the legislation”.⁸³

Cooper responded to this in a letter to the NIPSA General Secretary declaring that Agency members had much longer experience than staff in the field of equality of opportunity and that,

“All of them brought to it a realistic approach to what could be achieved and also a realistic appreciation that the Agency has within its power not just the ability to contribute to a redress of these ills but also to make the ills greater”.⁸⁴

While expressing his “deep resentment” of the charges by his senior staff Cooper has captured the heart of the problem. The degree by which a sense of “realism” influenced the nature and range of work undertaken differed dramatically in the organisation. On the one hand a range of highly committed staff felt that more could have been done and the Agency had abrogated its duties and another group, Agency members, whose sense of “realism” acted as a break due to the apparent potential for law enforcement to make the situation worse. In short it may be concluded that Agency members felt that enforcement could lead to a dangerous destabilisation of the market place. By so doing they failed to

⁸¹ *Branch 147 Committee* to NIPSA General Secretary, 7th January 1981.

⁸² *Branch 147*, NIPSA Branch Secretary to Agency Board Members, 14th November 1980.

⁸³ *Branch Committee 147*, correspondence to NIPSA General Secretary, 7th January 1981.

⁸⁴ Chairman FEA, Mr. Cooper to Jim McCusker, General Secretary NIPSA, 21st January 1981.

challenge the legitimacy of inequality in the market. For their part in response to this Agency staff demanded some form of independent arbitration while noting they,

“were not aware of the length or degree of involvement in promoting religious equality outside the confines of the Fair Employment Agency, of members of the Agency like Mr. Glen Barr (UDA), Mr. Donald Francis (Gallaghers), Mr. Michael Mclaron (CBI), Mrs. Margot Neill (EOC Chair), Mr. Ted Lamont, Mr. Tom Conaty (Catholic fruit merchant) However, as individuals directly involved in the work of the agency their contribution like that of all the other members can only be assessed in terms of the achievement of the Agency itself”.⁸⁵

In their letter to Adam Butler MP, Minister of State responsible for the Agency, the staff stated,

“As officers of the senior ranks in the Agency, we wish to state to you in the strongest possible terms, our serious concern at the consistently failed performance of the Agency as a consequence of the mismanagement of work by the Agency members and its sub-committees. Dubious practices have also occurred. This has led to a startling series of events over the past months:

1. A member of the Agency has resigned in protest at the Agency’s lack of progress and the manner in which Agency business is conducted.
2. The Secretary of State has received a damning documentary indictment of incompetence and cover up in the Agency.
3. The Branch for the Public Service Alliance have formally written to the Agency members calling for a private, independent and urgent enquiry into the Agency’s affairs. This matter now rests with the General Secretary of NIPSA.
4. Another member of the Agency had indicated an intention to resign.
5. The Deputy Director of the Agency has been continually subject to victimisation because he has privately expressed reservations and criticisms of the way the Agency has conducted its business. He has consequently been excluded from the management of the affairs of the Agency.
6. The character and commitment to the Act of other senior staff has been maligned.
7. To date each and every approach to the Chairman and Agency members for a resolution of the Agency’s problems has led to constant rejections.

It is in these circumstances that we have decided to write to you as soon as your ministerial responsibilities were announced to appeal for an urgent meeting with you in order to begin serious dialogue as to how the Agency’s problems could be successfully resolved and the Agency saved from disintegration before an irrevocable situation is reached”.⁸⁶

The Branch representatives and senior staff found themselves lined up against an Agency alliance of Cooper, the UDA's representative Glenn Barr, and Tom Conaty who presented

⁸⁵ Branch Committee, *Branch 147*, to General Secretary NIPSA, 26th January 1981.

⁸⁶ Letter to Adam Butler MP Minister of State 8th January 1981 from Galway, Graham, Patterson and O’Keefe – the four senior operational staff of the Agency.

himself as the voice of the Catholic hierarchy. Two dissenting Agency Board members, Des Bannon a careers teacher and Inez McCormack from NUPE supported the general position of the staff in the desire to achieve results. These two Agency members and the senior staff provided separate and distinct comprehensive dossiers to the Secretary of State's office expressing their concerns. Des Bannon met ministers and civil servants privately. The minister's office declined to act.⁸⁷

Political Intervention.

There were a number of specific issues with which the staff had grave concerns. One of the first contentious matters focused on instructions given to the Agency by the minister of state. Staff felt this exposed the agency to a charge of malpractice in enforcement. The Deputy Co-Ordinating Director responsible for complaints, Peter O'Keefe, a barrister, requested that Cooper put the case involving a small asphalt firm before an independent assessor "to determine if we had responded properly to the ministerial decision that we investigate". He expressed deep concern "at the improper way we handled the case", and asked Cooper to explain to the full Agency why he had withheld the facts from them including O'Keefe's report which advised them of his view.⁸⁸

This case was the first investigation carried out by the FEA to assess a company's continued entitlement to a government contract. Contrary to FEA policy not to act upon anonymous complaints such a source formed the basis for this action. Around October 1978 Paisley, the DUP leader had received a crude hand-written scrawl alleging a small asphalt sub-contractor employing 15 people in West Belfast discriminated against Protestants. Paisley in turn passed it on to Ray Carter, then a Labour Minister of State, on 23rd October 1978. The essence of the complaint focused on the fact the employer owned a pub in Co.Louth in Southern Ireland rather than the absence of any Protestant employees. The letter writer added, "he is reported to entertain Republicans who are extremists".⁸⁹

Carter told his senior civil servant Mr.Darwin to instruct Cooper to mount an

⁸⁷ Contemporary conversations and correspondence between Agency members and staff members November, December 1980, January 1981 and staff experience throughout 1981.

⁸⁸ O'Keefe, P. Deputy Co-Ordinating Director to Cooper, R. Chair FEA, 18th October 1979.

investigation, "and that if it is established the firm practices discrimination then the question of placing government contracts with the firm will be considered". He added "the minister expected an investigation to proceed without complications".⁹⁰ By 15th December 1978 the Co-Ordinating Director, Mr. Sefton had visited the company following several telephone calls. Thus the weight of government was swiftly brought down not against employers that were wholly owned government enterprises such as Harland and Wolff, Shorts or others with high profile sectarian reputations but a comparatively insignificant asphalt firm. FEA staff regarded the whole exercise as highly irregular and formally withdrew from any and all involvement in the enquiry. O'Keefe stated "the way in which the senior management of the Agency (Cooper and the Co-Ordinating Director, Mr. Sefton who carried out the enquiry) conducted themselves in this case is deserving of criticism and censure".⁹¹

This opinion was based on the fact that the whole procedure was against Agency policy. There was insufficient evidence for a public authority, the Department of Finance in this case, to form an opinion that the contractor had breached the equal opportunity Declaration. No agreement existed between government and the Agency that gave the FEA authority to monitor the granting of government contracts, and the anonymous source did not indicate he had been the subject of any direct or indirect act of discrimination by the employer.⁹² Furthermore Agency staff had encountered fierce resistance from Cooper when they demanded he seek from government the power to monitor contracts and deny equal opportunity certificates to those who failed to demonstrate they were de facto equal opportunity employers. Indeed it would be four years, March 1982, before the government conceded that businesses seeking government contracts should at least sign the Agency's equality Declaration. Signatures then flooded in and were accepted without question as to why they had declined to sign the Declaration for six years, nor was any analysis as to their employment practices carried out. The FEA thereby gained the right to withdraw this certificate. It never did so. In 1978, the threat of this was not even available so any enquiry could be no more than "sabre rattling". A small firm however was unlikely to have

⁸⁹ Anonymous letter to Ian Paisley MP, undated 1978.

⁹⁰ Mr. K. Darwin Department of Finance (NI) to Agency Chairman, 28th November 1978, and to Ian Paisley MP on 28th November 1978.

⁹¹ O'Keefe, P. to Cooper R. 18th October, 24th October 1979.

⁹² The law at the time gave the responsibility to the Department of Finance to require all contractors to sign a non-discrimination Declaration. This dated from the Stormont regime. The FEA mentioned this in its *Second Annual Report* but dropped the issue. It does not appear in the *Third Annual Report* at all.

appreciated this.

The manner by which Cooper responded to the NIO and Paisley was also considered highly questionable by senior staff for the following reasons. The matter was not brought before the Agency board or its sub-committees, a copy of the 'investigation' report went to Mr. Darwin on the 27th June 1979, who asked the Agency to forward a copy of the report to Paisley in late July as the "Minister took the view that it would look better all round and, preserve the straightforward independence (sic) of the thing". The company was not forwarded a copy until the 22nd August 1979. A Protestant sub-contractor who knew the Catholic contractor well, informed the FEA the allegations were "a load of rubbish" and the "work of a crank".⁹³

The internal staff view was the government and Cooper were intent on appeasing militant unionism. Due to the failure to adhere to any formal or legal procedures the findings had no status and were therefore unenforceable. Directions could not be given or undertakings sought. Such was the confused state of matters that Carter's office expressed the view that it was extremely difficult to determine whether any finding had actually been made. As O'Keefe pointed out, ministers and the FEA had done nothing to challenge large public and private employers that while benefiting from or totally reliant on government aid refused to sign the equality Declaration and "are known to have severely imbalanced workforces". He continued:

"Bearing this in mind one could consider that the alacrity with which the Rev. Paisley, Ray Carter, the Department of the Environment, the NIO, the Department of Finance, and last but not least the Fair Employment Agency, saw fit to evaluate the entitlement to a government contract of an employer of 15 employees, is a reprehensible state of affairs and could be construed as evidence of the double standards which prevail in this society in relation to inequality of opportunity on religious grounds; double standards which may have pervaded this body set up specifically to solve some of the problems associated with attitudes and behaviour which have made the Declaration a nonsense. Regrettably the question must be asked, *quis custodiat ipos custodes*".⁹⁴

Cooper declined to circulate O'Keefe's report and denied that any investigation took place

⁹³ O'Keefe, Peter. Memorandum and report, 18th October 1979 to R. Cooper, Chairman FEA.

⁹⁴ Ibid. p.5

and that the matter was not referred to the Agency Board.⁹⁵ The first draft was completed by Mr. Sefton, the Co-ordinating Director on 13th March 1979, a final draft was signed by Cooper on the 22nd June, and a copy and covering letter sent by Cooper to the Department of Finance on 27th June 1979. A copy of the report was sent to the company concerned on 22nd August 1979 by Mr. Sefton. No evidence of discrimination was found.

Government Contracts.

A second major issue was the absence of any link between the award of government contracts and equal opportunity practices. The FEA had arranged a meeting with the minister, Hugh Rossi MP, to discuss government contracts for 29th October 1979. O'Keefe had spent most of 1979 pressing the Chairman to consider a range of Agency shortcomings and in particular government contracts and the possibility of using the 1976 Act to initiate prosecutions against those holding the Declaration where there was evidence they failed to afford equality of opportunity. Matters came to a head on 30th August 1979 with negotiations breaking down between them. In the face of the pending meeting with Rossi, O'Keefe prepared a searing indictment of the FEA's record for the Agency Board to consider. Cooper refused to circulate this. O'Keefe pointed out that contrary to practices in the US where employers bidding for Federal contracts had to prove themselves de facto equal opportunity employers, the FEA's view that anyone who signed the Declaration, should automatically be considered such, was "ill conceived, technically ineffective and morally unconscionable". No sanction or incentive existed. American equal opportunity bodies considered this as the single most effective weapon in their armoury. O'Keefe said the rejection of "this pivotal role" was, "a betrayal of the next generation of young people seeking equal opportunities in this society". He added that by pursuing an American style strategy, the FEA would:

"restore to this Agency some measure of credibility and utility which has been absent since the day in 1978 when the Agency or its responsible official (Cooper) agreed to abandon the engineering enquiry because of the grossly improper interference of the then Minister of State Mr. Concannon".⁹⁶

⁹⁵ Cooper's denial is cited in *The Sunday Tribune*, Dublin 19th February 1984, 'Why the North's Jobs Agency Cannot Give a Fair Deal'.

⁹⁶ O'Keefe, P. *The Role of Government Contract Allocation and the meeting with Mr. H. Rossi, MP to Cooper and Agency Board Members*, 15th October 1979.

He continued:

"The many so far successful attempts to subvert the Agency and render its existence a mere window cosmetic for an international audience must warn Agency members against proceeding to any deal with the Minister until our policy in this vital area of government contract allocations has been reviewed and amended".⁹⁷

His document recorded the fact that the FEA in its first three years of existence had "failed to discover a single employer who is not affording equality of opportunity", remove anyone from the register nor "adequately complete a single section 12 enquiry". He listed 14 major "areas of policy mismanagement", which he considered had "resulted in the virtual administrative repeal of certain parts of the Fair Employment Act". These included the above plus failures to use sections of the Act which could impose broad remedies such as the prevention of incitement, intimidation, etc. by making the employer liable and the absence of any Appeals Board which was required under the Act. He considered that on the evidence collected by FEA officials 27 findings of discrimination from the 98 complaints received could have been made instead of seven. Faced with the refusal to distribute this O'Keefe charged the Agency with maladministration and told Cooper that his "refusal to actually discharge the huge and historic obligations that fortune has favoured you with, amounts to a betrayal of the next generation of young people".⁹⁸ In his report on government contracts O'Keefe had asserted that :

"I consider that I am in a position to prove that throughout the whole range of the Agency's statutory remit its onerous and historic responsibilities have been subverted".⁹⁹

In a telling comment O'Keefe attributed the lack of progress to an inability to grasp the fundamentals at stake.

"The definition of what is equality of opportunity remains obscure within the Agency since there has been no need these past three years to understand what it means. In not comprehending what the concept means we have been unable to recognise failures to afford equality of opportunity as and when they regularly presented themselves to us".¹⁰⁰

The rest of the senior management team, the research officer and conciliation officers

⁹⁷ Ibid.

⁹⁸ O'Keefe, P. Deputy Co-Ordinating Director to Chairman FEA, 16th October 1979.

⁹⁹ O'Keefe, P. to Cooper, R. Chairman FEA, 15th October 1979.

wrote a note to the chairman supporting O'Keefe's position and suggested "it would be both constructive and stimulating if this memo were circulated".¹⁰¹ Cooper finally conceded by allowing O'Keefe to address the Board. Prior to this however Cooper issued a paper supporting the government. He dismissed the view that a firm should produce "figures showing the religious breakdown of its employees and where there was an imbalance be required to produce a programme to rectify this", as "official sectarian head counts".¹⁰² Much later in 1992 Cooper declared, "One of the most important aspects of the 1989 Fair Employment Act was the introduction of monitoring" for all public and private sector employers.

In his address to the Agency Board at the end of October, O'Keefe cited a "catalogue of humiliation, failures, shabby deals ... which have lost us the only irreplaceable asset we had in 1976, namely our credibility". He deplored the low level of findings of discrimination, the failure to seek any undertakings from employers to remedy their practices; the failure to complete any section 12 investigations and the many misleading statements issued in the Annual Reports. He noted that many 'decisions' had simply been taken for the record without any intention for these to be implemented. He attacked the Agency's decision to assess the impact of family size and family planning on inequality (25th October 1979) while "Section 12 investigations into the attitudes, practices and compositions of even one employer or even one trade union in Northern Ireland have not been completed". He added:

"While we seek to explain or justify workforce and occupational imbalances in terms of attitudinal, educational, aspirational, sociological, geographical, demographical phenomena, the phenomenon, the illegality or the plain custom of religious discrimination both direct and indirect remains virtually unchallenged by your efforts, by our efforts in your collective name".¹⁰³

The argument presented on government contracts focused on the "government's role (is) absolutely crucial in this area of public morality". For government:

"By contracting with an employer who practices religious discrimination, be it direct or indirect and who fails to afford equality of opportunity regardless of religion, the Government finances discrimination ... When Government monies,

¹⁰⁰ O'Keefe, P. to Cooper, R. Chairman FEA, 19th October 1979.

¹⁰¹ FEA staff to Chairman, 16th October 1979.

¹⁰² Cooper, R. Chairman FEA to FEA Board 24th October 1979.

¹⁰³ O'Keefe, P. *Address to the Members of the Fair Employment Agency*, 29th October 1979, p.6.

levied from tax payers of both religions, are paid to an employer with a grossly imbalanced workforce ... unless that employer is engaging in efforts to create an appropriate balance, to create equality of opportunity, then the Government is funding the creation, the continuance and the entrenchment of religious inequality in employment".¹⁰⁴

O'Keefe's detailed analysis was rejected. The Agency instead chose to embark on disciplinary action against him. The minister, Rossi on the other hand had earlier indicated movement might be possible. This was at a price. In a private meeting with Cooper he had asked that the proposed investigation into the civil service be dropped as "he felt the situation was being rectified and that the statistics which exist in the higher echelons were already well known". Cooper reported to the Agency Board that:

"the Minister appeared to be suggesting that if the Agency held back on the question of the civil service, he would be more helpful in respect of Government Contracts. ... The Minister has asked that should be dropped. The Minister apparently believed that to follow through with the Civil Service investigation would do nothing but damage. He felt the situation was being rectified and the statistics which exist in the higher echelons were well known."¹⁰⁵

Inez McCormack an FEA board member and trade union representative leaked the story to the Dublin based *Hibernia* which ran it under a "Dirty Tricks", banner headline. Rossi's efforts were referred to as a "squalid deal", and a "sinister attempt at Ministerial blackmail".¹⁰⁶ This proved highly embarrassing for Britain in the USA where Congressional committees were discussing their refusal to sell guns to the RUC and the European Courts were examining Britain's violations of human rights at the time. The meeting with Rossi however produced nothing. It would be three years later amidst fears that NI was on the point of total civil war that government required contractors to be signatories to the *Declaration* and almost five years before an investigation report into the civil service -considered a 'whitewash' by those involved- was published by the FEA.

O'Keefe's unwelcome address identified several central issues. Firstly the Agency had singularly failed to carry out its mandate. The law had not been applied or vigorously pursued. The Agency, as part of its education programme, was seeking to direct much of the FEA's extremely limited resources away from formal investigations while its public

¹⁰⁴ Ibid., p.8.

¹⁰⁵ FEA Board *Minutes*, 26th June 1979.

¹⁰⁶ *Hibernia*, Dublin, 'Dirty Tricks in the North's Fair Employment Agency', 26th July 1979

credibility had crashed. The SDLP leadership described it publicly as “totally useless”.¹⁰⁷ The government did not carry out its own moral mandate in a society riven with conflict that desperately needed some semblance of progress. The actions by government only confirmed its mandate was a unionist one in practice and very often in name.

Ormeau Bakeries.

A third contemporaneous issue involved Agency Board member, Des Bannon, Branch 147, senior staff and the Agency chairman. The controversy arose from an individual case of discrimination against a Catholic man in 1979. Ormeau Bakeries is located in an area of South Belfast that is accessible to both religions. Of the 1038 employed, 10% were Catholic. Of these 72% had been recruited in 1979 alone when Ormeau expanded to take advantage of the closure of Peter Pan Bakeries in West Belfast. In Derry, however, at its Stevenson's outlet, the 187 employed were 46% Protestant and 52% Catholic. When an individual complaint of discrimination was rejected by the FEA, Bannon forced through the Agency an agreement to conduct a broader equal opportunity investigation. As Cooper was vigorously opposed to this he referred the matter to the research sub-committee to which Bannon had no access. Bannon then pursued the matter with the Secretary of State's office.¹⁰⁸ There matters rested until the Irish National Caucus intervened by mounting a campaign to ban Ormeau's' products from a St.Patrick's Day exhibition at Maceys in Washington. Ormeau's managing director, Mr.Logan urgently sought a “clean bill of health” from Cooper. At a private meeting on 22nd April 1980, Cooper accepted Logan's claims on "the major strides which had already been taken".¹⁰⁹

Between November 1980 and January 1981, Ormeau recruited 97 workers. Thirteen were Catholic. By November 1981, from 223 applications received, 28 were Catholics. The local Employment Service Office reported that between 1976-1981 Ormeau rarely notified it of any vacancies and when they did applicants were usually Protestant due to Ormeau's reputation. The FEA assured Ormeau, "spectacular progress cannot be expected".¹¹⁰ Bannon resigned accusing Cooper of "evasion, delay, deception .. and cover up". He said

¹⁰⁷ Gerry Fitt MP, SDLP, *Hansard*, 7th March 1979, Cols. 1351, 1352.

¹⁰⁸ Bannon, Des. Agency Board Member to Branch Secretary NIPSA, *Branch 147 Files*, 5th November 1980. *Forty-Eighth Board Meeting of FEA*, 9th December 1980

¹⁰⁹ Note of Meeting between Cooper and Mr.Logan, Managing Director of Ormeau Bakery and Mr.Kelly Administration Director on 22nd April 1980 - dictated in June 1980 by Cooper and placed on file.

he had "much common ground for agreement", with O'Keefe and was left "sadly disillusioned about its (the FEA) less than diligent progress".¹¹¹ He followed this up with a private meeting with Rossi and submitted a lengthy dossier to the Secretary of State. Bannon relayed to Agency staff the contents of the meeting. The Minister claimed to share his concerns and promised action would be taken. Cooper was called to a meeting with Rossi following this and reported back that O'Keefe was also seeking a meeting with the Minister. The Agency authorised Cooper and the Staffing Sub Committee "to take such action as they deemed necessary".¹¹² Bannon reported that he found himself under pressure from the Catholic hierarchy to drop the subject as Conaty had 'put the word about'. A Catholic narrowly escaped assassination from a UDA death squad by dodging between bakery trucks at Ormeau in 1992. By 1994, Ormeau Bakeries, had consolidated its role as leading baker through an acquisition process that included Catholic bakeries. Its workforce included 114 Catholics out of its 603 workforce.¹¹³

The Agency Board was composed of 12 members. The religious composition was nine Protestants to three Catholics. Bannon's experience as a Catholic Agency member reflected the overwhelming desire among Agency members that employers should not have the full force of the Act applied against them. The prevailing prejudice was that employers were doing all they could and that incidents of actual discrimination or intimidation on the shop floor were exceptions to the rule. Employers were thereby always given more than the benefit of the doubt rather than obliging them to prove beyond a shadow of a doubt that they did indeed seek to offer equality of access to employment. The evidence presented throughout this chapter demonstrates this policy was misguided and ignored the harsher realities of seeking and holding onto gainful employment where opportunities were few and fiercely contested. Education without enforcement was a strategy that left the FEA adrift.

The internal crisis continues.

Matters intensified when McCormack, NUPE's regional organiser and the NIC ICTU's

¹¹⁰ FEA to Ormeau Bakeries, 18th September, 1981.

¹¹¹ Des Bannon, NIPSA *B147 Files*; *Forty-Eighth Board Meeting of FEA*, 9th December 1980.

¹¹² Conversation with author following the meeting with Rossi and the ministers claim that matters would be taken up by the office of Humphrey Atkins MP, Secretary of State for NI. December 1980.

¹¹³ *FEC Monitoring Returns 1994*, Report No. 5, FEC, March 1995.

representative resigned in disillusionment, "due to its failure to implement the Fair Employment Act".¹¹⁴ Her replacement in 1981 John Coulthard, held private meetings with staff in their homes and while agreeing with their stance would later use these frank exchanges and confidences to assist the Agency take disciplinary action against them as the staff continued to seek reforms of the Agency's policy and practices following the NIPSA Branch resolution calling for an urgent and independent enquiry into the FEA on the 14th November 1980.¹¹⁵ The Co-Ordinating Director, Sefton, made it clear he would do everything possible to sack staff at the centre of the conflict. The Branch Committee, in turn threatened industrial action and:

"expressed their concern at the manner in which the Chairman ran the Agency, the total breakdown in communications with staff and management, the failure to recruit extra staff and their lack of confidence in the ability and willingness of the Agency to pursue the implementation of the Fair Employment Act."¹¹⁶

In the midst of this turmoil Sefton confirmed he was manufacturing job descriptions with a view to "further reduce and isolate the responsibilities" of O'Keefe and was developing proposals for an FEA company trade union whose representatives would be determined by himself and the Chairman. Sefton's proposals included refusing to recognise NIPSA; for the Agency to have a veto on who Branch Officers were; to establish an "involvement committee", to replace the trade union which would conduct its own elections and establish representatives approved by the Chair and himself. One concession was that if NIPSA remained they would be permitted to nominate a Branch official to be included in the "involvement committee". Sefton also prepared a 20 page, 52 point private paper on the actions of O'Keefe that included a range of suggestions to sack him, make him redundant and cited a list of alleged quotations critical of the Agency and chairman. This included being "positively insolent" and casting doubts on "the integrity of members". Point 13 for example states:

"His vilification of the chairman was constant. O'Keefe referred to him as "that toad", "a liar" and inferred he was using his position in the Agency to advance himself politically in West Belfast. He also started his veiled threats of exposing the "corruption" of the Agency".¹¹⁷

¹¹⁴ Branch 147 NIPSA *Minutes* of meeting with Inez McCormack, 13th November 1980, at 12.15pm at FEA offices, Lindsay House, Belfast.

¹¹⁵ NIPSA *Branch 147 Resolution*, 14th November 1980. The private meetings with Coulthard in 1981 included Patterson, Galway, Graham and O'Keefe followed by numerous telephone calls with Branch officials that were then cited in disciplinary processes in February 1982.

¹¹⁶ *Branch 147 Correspondence and minutes* with NIPSA General Secretary and FEA, November 1980, 7th January 1981.

¹¹⁷ Peter Sefton, Co-Ordinating Director FEA, Untitled dossier, Point 13, 1981.

Under his options for dealing with O’Keefe, Sefton added that “in any event the other staff members will have to be dealt with re their joint letters to Rossi and Butler”.¹¹⁸ Sefton’s document also confirms that in the case concerning the asphalt company, the Minister, Ray Carter MP and the anonymous complaint raised by Ian Paisley MP, (see *Political Intervention* above) that “The Chairman and the Co-Ordinating Director decided to carry out an informal investigation in order to avoid adverse political reaction as Paisley had passed on the letter to the Minister”.¹¹⁹ Demands to see personal files were refused. For the local branch which had just completed a high profile and successful campaign in 1981 to oblige the EOC to change its ways and implement the law this came as a shock.¹²⁰ The difference between this struggle and the EOC was that the issue of religion went to the heart of the state of NI. Gender could be safely debated as a universal issue.

When this was reported to the NIPSA General Secretary, Jim McCusker, he expressed alarm lest the trade union movement be accused of sectarianism by joining “the chorus of criticism of the Agency that stems from certain quarters”. As the Branch Committee pointed out, to ignore such issues would make the union very much a part of the problem.¹²¹ From this time Agency staff were denied access to files essential to their work, excluded from attendance at Agency meetings, all staff meetings ceased as the FEA embarked on what the branch officials considered was a campaign of political victimisation. The Branch Secretary’s mail was opened and formal grievance procedures initiated against the Agency chairman by him ignored.¹²² In short the FEA embraced all the worst attributes of a discriminatory employer. On 2nd December 1980 O’Keefe raised the stakes by writing to Rossi directly seeking a meeting to discuss "the future of the FEA"

¹¹⁸ Ibid., p.14, Option 5 of six options.

¹¹⁹ Ibid., Point 11.

¹²⁰ The EOC enquiry was carried out by leading barrister Geoffrey Bindman, author of *Race and Law* 1972. An administrative report was also produced by Chris McCrudden. The EOC and FEA shared office space and were organised into one trade union branch. In 1982 Sefton presented what he termed “incident reports” which were a range of allegations made by him against individuals. This was in breach of the disciplinary procedure and denied the opportunity to challenge or comment and led to formal protests by NIPSA full time official John Corey at such conduct by the FEA.

¹²¹ General Secretary *NIPSA* to Branch Secretary, 18th November 1980.

¹²² Due to the failure to adhere to normal personnel practices the Branch demanded independent arbitration “to allay any problems about confidence and impartiality”. Branch Chair to Cooper, 26th February 1982. The standard practice in the FEA, despite protests from staff in 1978 and 1979, was that Cooper read all incoming mail first before distribution to anyone. Trade union mail had been excluded so the conclusion reached by branch officials was that instructions had been given to open this mail by the Co-Ordination Director, Mr.Sefton who was in charge of administration. *Branch 147 Files*, October 1980-1982, Correspondence to FEA Chair, 10th July 1979.

and its record. The FEA "expressed great concern at this development", leaving staff feeling O'Keefe would be removed by the Agency. In the middle of a totally chaotic Agency Board meeting McCormack reported to Branch 147 she had secured an agreement that an external advisor be asked to review the organisation. The terms of reference however excluded any question of malpractice.¹²³

In order to protect O'Keefe, the research and conciliation officers, Graham, Patterson and Galway, wrote similar letters to the Minister and informed the FEA. The atmosphere of vendetta and intrigue was so intense at the time that they all felt they were setting themselves up for the sack. A meeting was held with the NIPSA General Secretary on 23rd December 1980 and a 23 point letter detailing many of the failures and questionable practices was produced which was sent to Cooper seeking a response and assurances on behalf of staff. The staff letter expressed concern over victimisation, the "maligning of the character and commitment of staff" and concluded, "the general feeling within the staff is one of frustration and failure". Protection was sought against any attempt "to dismiss staff" over the affair.¹²⁴ This was followed up by a letter to Adam Butler MP, who replaced Rossi. It stated:

"As officers of the senior ranks in the Agency, we wish to state to you in the strongest possible terms, our serious concern at the consistently failed performance of the Agency as a consequence of the mismanagement of work by the Agency members and its sub-committees. Dubious practices have also occurred".¹²⁵

Bannon's "damning documentary indictment of incompetence and cover up", which was provided to the Secretary of State was also referred to. Given the Agency's peculiar paramilitary connection some staff considered themselves at risk and strengthened their own personal security. This reflected both the intensity of the dispute within the FEA and the loyalist para-military murder campaign that was targeting both Catholics and Protestants deemed to be "fenian lovers". At the time this fear was real and present. The Agency staffing sub-committee which included Cooper the chair, Barr from the UDA, Inez McCormack NUPE, Conaty and Gallagher's personnel manager Mr. Francis who been specially co-opted for a meeting to interview O'Keefe on the 21st January 1981.

¹²³ FEA *Board Meeting*, 9th December 1980, Inez McCormack to Branch Secretary and Chair.

¹²⁴ Letter to General Secretary NIPSA 7th January 1981, NIPSA General Secretary to Cooper, 14th January 1980.

Having considered the correspondence around this meeting the Branch Committee considered the FEA were simply attempting to submit O'Keefe to a "kangaroo court" and determined to represent him. Cooper and the panel refused to allow NIPSA to represent him, demanded to see him alone without specifying why and instructed the Branch Secretary as an employee to "make no further statement", on his behalf. The result was that the Branch Committee as a body 'stormed' the meeting and asserted their right to represent union members. Glen Barr the UDA member walked out after the Branch Secretary ignored his declaration "that he was an agency member and a staffing sub-committee member and as such your employer and he was instructing the Branch Secretary to make no further statement". The Branch representatives made a number of statements asserting NIPSA's right to represent members facing disciplinary action including a long statement protesting at the political victimisation and smear campaigns against staff, and recorded their formal:

"protest to the Staffing Sub-Committee at what we can only regard as a process of victimisation against this member of staff while the Agency is aware that four of the five senior officers of the Agency have made similar requests to the Minister of State including the present incumbent Mr. Butler".¹²⁶

They then withdrew having won the day for the moment. An increasingly bitter struggle continued. As further appeals to Butler fell on stony ground, the staff endeavoured to make a final effort to resolve matters internally. A private meeting was convened with Cooper on Sunday 15th February 1981 in a member of staffs' home. Cooper requested that the Branch lift the resolution calling for an enquiry. When the staff declined he offered to write a letter of reconciliation to the Board which would allow everyone to start afresh. On the Monday however at a further meeting he said "such a formula of settlement", would not be accepted by the Board. The latter apparently desired "victims" to be sacked. In reply staff condemned the "intransigence of the Agency", and "pointed out they had taken every step possible to conciliate and reach a settlement acceptable to both parties while the Agency had offered nothing except intimidation, disciplinary threats and a maligning of the characters of staff members. The Agency was unable to be fair to its own employees". On the 19th February they handed Cooper a sealed letter and told "him unless there was

¹²⁵ Correspondence with Ministers Hugh Rossi MP, 15th December 1980 and Adam Butler MP, 8th January 1981, 11th February 1981 and letter to NIPSA General Secretary 7th January which was enclosed.

¹²⁶ Branch 147 Committee record of meeting 21st January 1981. Ms. McCormack left the building before the meeting took place.

some agreement on the terms contained", it would be delivered to the Minister by 3pm and the contents made public. Cooper was under the added pressure of having reached the end of his term of office and was still unsure whether this would be renewed. He capitulated and a joint statement was prepared for the Agency Board on the 10th March 1981 that sought to map a way forward. This included providing a joint letter from the chairman and Agency staff to the Minister, Adam Butler MP and agreeing to accept the involvement of Chris McCrudden (an academic lawyer from Lincoln College Oxford) in reviewing the Agency's "procedures and structures". It also included a note of the Board meeting that it would "not take disciplinary action arising from the letters they sent to the Ministers". Butler was advised and replied on the 26th stating, "I shall observe developments concerning the review being conducted by Mr. McCrudden and the Agency's progress with great interest".¹²⁷ This reconciliation did not last.

The problem was precipitated by McCrudden. When he arrived in June to conduct his review the FEA denied the trade union access to him. He confirmed his brief was restricted to an examination of procedures alone.¹²⁸ The staff had understood his review would have assessed policy and enforcement as well. His first attempt was rebuffed by staff as no more than a reproduction of a 1974 Race Relations Manual that was already on FEA premises which had been carelessly edited following a cursory visit to the Agency. They considered it "indefensible" and so poor as to jeopardise progress.¹²⁹ The manual was rejected as wholly inadequate. McCrudden found these criticisms "offensive" but went on to produce a revised report and then advised the staff he would pursue a "review of the Agency's structure".¹³⁰ Tensions and conflict came to the fore as staff and the Branch felt the FEA would use this report to avoid the matters of substance behind the original resolution seeking a formal and independent enquiry.

While McCrudden was conducting his review NIPSA's General Secretary contacted Cooper and suggested a trade union/Agency Working Party be set up to try and resolve matters. At the preliminary meeting between Agency representatives and the Branch Committee, the Branch Chairman, Patterson, noted this was an "historic" occasion as it

¹²⁷ Letter to Minister Adam Butler MP, 13th March and his response of, 26th March, 1981. *Minutes of Fifty-First meeting of FEA Board*, 10th March 1981.

¹²⁸ Branch 147 to Chairman FEA agreeing McCrudden terms of reference, 25th March 1981.

¹²⁹ FEA staff to FEA Co-ordinating Director, 9th October 1981.

¹³⁰ McCrudden, C. to Agency staff 18th November 1981.

was the first formal meeting in five years. He stressed that "a major proportion of the blame for this dichotomy between members and staff is the responsibility of the Chairman of the Agency". They recorded their dismay at being denied access to McCrudden and suggested an immediate improvement could be achieved by ensuring Agency minutes and agendas, stopped being treated as "secret documents" to be kept from staff. The Branch Secretary stated:

"that members of staff had been barred for almost two years from attending Agency meetings, sub-committee meetings and meetings of management he (on behalf of the Branch) found it incredulous (sic) that a body such as the Agency should operate behind locked doors and have discussions and make decisions about areas of Agency work and expect Agency staff to implement any such decisions when the very same staff neither knew or were informed as to what decisions or discussions had taken place Such practices from a body allegedly committed to equality of opportunity only served to create suspicion and mistrust and was detrimental both in terms of morale, industrial relations and the very credibility of the Agency itself".¹³¹

Staff were promised agreement, progress and a joint working party to take matters forward. Agency members at the meeting, which included Coulthard and Francis, even thanked the committee for their forthright views and claimed not to have been fully aware of them. A document outlining proposals for "Reforming the Fair Employment Agency" was drafted by staff and presented with some optimism. NIPSA's General Secretary allocated a full time official to be part of the joint Working Party. At his first meeting the FEA suddenly went back on all agreements leaving NIPSA's full time official astonished. He was further taken aback to discover Cooper had drafted a minute "totally at odds with the agreed minutes" and presented instead his own version to the board. When challenged "The Agency side could offer no satisfactory explanation".¹³² The sticking point at this time was the Branch's formal rejection of McCrudden's procedural manual carried by secret ballot. O'Keefe by this stage gave up hope of any meaningful change and instructed the union to negotiate a positive severance package. His absence however, particularly with his legal skills as the only lawyer in NI at the time with an in depth knowledge of the Act left those remaining severely weakened. By the 28th January 1982 the Working Party minutes record the Branch chairman and secretary seeking formal "written assurances that victimisation of staff would not occur", nor disciplinary action for rejecting McCrudden's

¹³¹ *Minutes* of Branch 147 meeting with FEA Staffing Committee, 3rd November 1981.

¹³² *Minutes* of Ad Hoc Working Committee, 7th January 1982.

manual.¹³³ They wished to see the procedures as part of a total package and were trying to link procedures to policy and enforcement.

Cooper and other members (according to NUPE's John Coulthard) decided the way to resolve matters was to mount a vigorous attack on the Branch Committee. John Coulthard, NUPE's regional organiser who replaced McCormack on the Board requested a private meeting with the committee. This took place in the privacy of a staff members home. Coulthard expressed the view that if there was to be any progress, "Cooper and Sefton will have to go". He warned the branch secretary, "he should protect himself", as the FEA were about to embark on a sustained campaign to force him out.¹³⁴ At the next meeting with a full time NIPSA official present the FEA set out their latest position. NIPSA's right to represent its members was rejected as was the presence of a full time official. Agency members wished to have the right of veto over whom should serve on the branch committee, otherwise no meetings would take place. Sefton proposed a company union composed of himself, the chairman and other members of staff. This was presented as having the full support of the FEA Board.¹³⁵ Access was denied to staff personal files as Branch staff were informed "dossiers" of criticisms made against the chairman were being collated (see above).

The FEA's proposals to create a company union were vigorously rejected by NIPSA official John Corey and the Branch representatives. All negotiations ceased and a series of measures were taken against the branch secretary by Sefton and Cooper. ICTU was asked to withdraw its nominees. NIPSA's General Secretary was informed "nothing has been achieved despite strenuous efforts on our part and we believe the ICTU nominees should withdraw from the Agency as in the case of the EOC".¹³⁶ Butler was informed "that neither the substance nor the spirit and intent of that joint minute (13th March 1981) had been adhered to" by the FEA.¹³⁷ A formal complaint of political discrimination was lodged against Cooper and Sefton by the branch secretary. Sefton's secret dossier and the Agency's whole campaign were cited as supporting evidence. Despite the fact this was a

¹³³ *Minutes of Working Party*, 28th January 1982. (this is the same as note 116, titles varied by meeting).

¹³⁴ John Coulthard, Regional Officer NUPE discussion with *Branch 147* Committee members, November 1981.

¹³⁵ *Branch 147 Files*, Branch Secretary to NIPSA 15th February; Branch 147 correspondence to FEA. 12th, 15th February and correspondence from FEA 12th February 1982.

¹³⁶ *Branch 147* correspondence to General Secretary NIPSA, 24th February 1982.

¹³⁷ *Branch 147* to Adam Butler MP, Minister of State (NI), 26th February 1982.

formal complaint under the Act citing them as the respondents, Sefton and Cooper decided it should not be investigated on grounds of time procedures. As the branch secretary's position became untenable he joined O'Keefe and resigned late in 1982 with a financial settlement and reference from Cooper made by the FEA to avoid what would have been a high profile industrial tribunal case claiming political victimisation. With the loss of two of the key protagonists and the resignation of the only two Agency members to express any genuine concern, - McCormack and Bannon - the struggle that had effectively lasted four years ended in defeat. Everyone else was put on 'probation'.¹³⁸

A surprising coup de grace was however given by McCrudden and the Northern Ireland Office. In his analysis, despite the constraints of his terms of reference, McCrudden's confidential report concluded:

"The direct experience of the legal enforcement of the Fair Employment Act is a depressing picture of a massive task, of the possibility of change, but of an Agency which has failed to meet that challenge. A complete overhauling of the FEA is necessary. Agency procedures, structures, and policy must all be rethought before the type of forceful role for the legal process in the eradication of inequality of employment opportunity, envisaged by the van Straubenzee Working Party, is even remotely possible. It is by no means certain that the Act will then prove successful. What is clear however, is that without such changes the ideals which the Act was meant to achieve stand little chance of success".¹³⁹

He stressed that "law enforcement and follow up action based on the results of law enforcement should be the central function of the Agency". He criticised the fact that by 1982 only one investigation, a draft report on the Electricity Service, had been completed. He gave support for the staff views that a coherent enforcement strategy was essential. He endorsed the research officer's views that statistical evidence rather than the 'feel' of Agency members should form the basis for inferring whether inequality existed and that research should be an integral tool of enforcement.. McCrudden's confidential report noted that the absence of any legal tradition similar to the US model between enforcement

¹³⁸ By 1987 the rehabilitation was so complete that Galway and Patterson were entrusted to accompany Agency members as they traveled across the US as part of the NIO's propaganda initiative in the US to block the MacBride Campaign. Galway later moved to Short's as their personnel manager.

¹³⁹ *The McCrudden Report*, FEA 8th February 1982, p.36, Appendices 15th February 1982. (unpublished). McCrudden produced a version of this report in *Religion, Education and Employment*, (1983), Cormack, R.J. & Osborne, R.D., 'The experience of the Legal Enforcement of the Fair Employment (NI) Act 1976', Ch.10, pp.201-21. Appletree Press, Belfast.

agents and the courts “had a major adverse effect on the FEA itself”. Having become embroiled in the bruising internal encounter he observed that “the working environment within the Agency has deteriorated to such a degree that the quality of the work produced is being seriously effected, in particular because of lack of clear definition of what staff are supposed to be doing...”, and that the absence of recognition or reward for good work would leave staff, “likely to desert what, to some at least, seems like a sinking ship”.¹⁴⁰ He also noted the lack of investment by government in pursuing its declared policy objectives. At the time –1980-81- the FEA had a staff of 12 with a budget of £208,000 controlled by the Department of Manpower Services. The local Labour Relations Agency by comparison had a budget of £595,917 and the CRE had a staff of 224 with a budget of over £7 million. The degree of investment by the British government would change however in the face of the growing political threat presented by republicanism following the 1981 Hunger Strike. In his assessment of the legal effectiveness of the FEA he concluded,

“If one way of assessing the success of the Agency in carrying out its statutory duties under Part III of the Act is its ability to have findings of discrimination supported in the courts, it has clearly failed”.¹⁴¹

This was derived from the fact that up to the end of March 1981, only 10 findings of discrimination had been made by the Agency from 216 complaints made. Of these six had been appealed to the courts and of the four then heard, all had been overturned by the County Court. In short the presence of an equal opportunity culture in employment and the judicial process had not been achieved. The FEA’s emphasis on voluntary change had failed. McCrudden recommended “that law enforcement and follow-up action based on the results of law enforcement should be the central function of the Agency around which every other function should revolve”.¹⁴² The rigorous enforcement of the Act with particular emphasis on powers to conduct investigations under Part II of the Act was not welcomed by the Agency. His report was quietly shelved by the FEA No plans of action, strategies or response were developed by the FEA or government departments responsible for promoting equality of opportunity as a result of this work. McCrudden however had a second opportunity to assess the policy and practices of the FEA as a member of the SACHR review team that was commissioned to undertake a review of the 1976 Act’s

¹⁴⁰ Ibid., pp.13,14,15.

¹⁴¹ Ibid., p.18.

implementation between 1985-1987 (see Chapter 8).

Given the turmoil and external worsening political situation the government declined to reappoint Glen Barr, the UDA's representative. Prior to the decision Cooper and Barr had endeavoured to get the Agency Board to collectively endorse Barr by moving a vote of confidence in him. Barr formally raised the issue of his position and the role of the UDA externally at an Agency Board meeting and then withdrew to allow members to discuss his position. Cooper proposed the vote of endorsement and made the point the UDA could not be compared with Provisional Sinn Fein as he claimed SF did not support equality of opportunity. As members put their hands up to endorse Barr, the Chair of the EOC, Margot Neill, (also a member of the FEA Board) intervened to make the point, that the FEA should not allow the UDA to use it for the UDA's political ends. This was agreed.¹⁴³

The contradiction at the heart of the internal struggle were competing visions as to how fast and what methods could be utilised to achieve reform. One was a vision which actually saw the implementation of the law and its development as essential first steps in pursuit of equity in the marketplace and the other which saw any significant challenge to the predominating powers of this local market as a source of instability and political conflict. These contradictions would be manifest again in the late 1980's over the MacBride Principles campaign. The intensity of the struggle and the personal commitment may have reflected a sense of idealism but the reaction by the FEA may be considered as out of proportion to the challenge given every effort was made to keep it "in house". The risk to the Agency was that if its staff had no faith in its capacity or commitment to implement its legal remit then why should anyone else. This occurred during and after the 1981 Hunger Strike. Political tensions could not have been higher. The FEA could not respond by a vigorous application of the law, partly because the will and vision were not there but also partly because the Agency's strategy rested on not alienating employers. Even when external political pressure to be seen to be doing something was intensifying

¹⁴² Ibid. p.22.

¹⁴³ Barr found favour again in June 1989, when the NIO invited him back to serve on a new Community Relations Council with the objective of promoting the "improvement of community relations between the different parts of the community". In February 1998 he was appointed by the government to serve on the Parades Commission to adjudicate on where loyalist parades should take place. He would later storm out at the decision to reroute the highly sectarian and controversial Drumcree march away from a Catholic estate that July.

the Agency proved extremely reluctant to act.

On 3rd February 1982, the Research Sub-Committee discussed a proposal to recommend to the Agency Board to publish "all investigation reports in full". Cooper claimed such a step would be illegal particularly in the light of the undertakings he had personally given to employers that nothing would ever be published. The CBI representative, Michael Maclaran, described the proposal as a "regrettable fork in the Agency's path as employers try to work together with the Agency". He said employers had willingly made "data readily available", as they knew it would not be published. FEA staff were unable to cite any examples of this co-operation at the time and Coulthard emphasized "that there was a problem with both trade unions and employers who on occasion had combined to impede the work of the Agency's investigations". When it came to the vote, Cooper declined to support the move and the CBI opposed. The decision to publish and thereby attempt to improve "the poor image the Agency has in the public and private eye", was carried with the caveat, "that reports of investigations should be published except where the Agency otherwise directs".¹⁴⁴ What this meant in practice however can be illustrated by reference to the FEA's most important undertaking, the investigation into the NI civil service.

At a meeting in May 1978 with Don Concannon MP, Minister of State, the civil service and representatives of the Agency Board, the civil service stated they did not monitor religion in accordance with the *Guide to Manpower Policy and Practice* "since they felt that they had no need as they followed the other recommendations of the Guide in respect to job selection".¹⁴⁵ In December 1978 proposals were made by the research officer to carry out a formal investigation. Cooper wished to restrict it to around 1,400 out of around 23,000 people. Cooper also suggested and agreed with NIPSA that a voluntary tear off slip indicating religion would achieve the result intended. A strenuous bout of infighting however persuaded Cooper to accept proposals by the research officer who had insisted data be gathered from personal records and should include age, length of service, education, grade, etc. In a memo to the chairman he stressed, "It is crucial that a study of this magnitude should not be allowed to degenerate into the farce the engineering enquiry has become".¹⁴⁶ This debate stemmed from a vigorous internal debate between the author

¹⁴⁴ FEA *Research Sub-Committee*, Contemporaneous record and Minute, 3rd February 1982.

¹⁴⁵ Discussion note of meeting 22nd May 1978.

¹⁴⁶ FEA, Memo from Research Officer to Chairman, 2nd July 1979.

and the Agency's Co-Ordinating Director, Mr. Sefton, over what should be the terms of reference, scope and range of data to be sought in the civil service investigation. Sefton had proposed a narrow range of options that restricted the investigation to a small number of staff above staff officer level and a limited range of employment indicators due to his opinion that it "was optimistic to think in terms of an intellectually acceptable report from the sort of exercise we can do".¹⁴⁷ The author by comparison had put forward a terms of reference that included, age, salary, sex, length of service, department occupied, religion, promotions, place of birth, local government transferee, etc. he argued that to do otherwise would result in,

"an incomplete exercise from which it will be totally impossible and irresponsible to infer or draw any conclusions concerning either the civil service as a body or any changes that may or may not be occurring in this crucial sphere of employment. In short, we will have wasted our time..."¹⁴⁸

By 1980 the research officer was still demanding that Agency members be informed of the proposals existence. In the end they were eventually adopted but more due to a mixture of external pressure and internal dissent than an enthusiasm to carry it out.¹⁴⁹

An external team of experts were recruited to help. They included an American academic from Queen's University, Bob Miller to carry out the statistical modeling and analysis; Michael Pearn, formerly of the Runnymede Trust, then a management consultant in equal opportunities was recruited as the independent assessor for the whole project. An Advisory Group consisting of NIPSA, the civil service, the consultants and the FEA's research officer and co-ordinating director was formed. From the outset the Department of the Civil Service (DOCS) demanded that the research be split into two and that only if imbalances were revealed in terms of a straight head count would further analysis be permitted. Sefton volunteered to exclude "the Prison Service and Staff in similar security situations". The initial study was completed by June 1981 and demonstrated major inequalities in the DOCS which was then responsible for recruitment. The secretary to the civil service commissioners who served on the advisory group declared when faced with this evidence that "He had no intention of hiring a particular officer to promote equality of opportunity", and "no intentions of monitoring the number of Roman Catholics hired at Promotion

¹⁴⁷ Peter Sefton to the author, 22nd January 1979.

¹⁴⁸ Graham, D. "Research Policy Discussion Paper for Chairman", February 1980.

¹⁴⁹ The pressure from Minister Hugh Rossi to abandon the investigation or do a deal on it and the publicity around the exposure of this has already been discussed above. FEA *Board Minutes*, 26th June 1979.

Boards".¹⁵⁰

Miller's analysis of the overall situation was completed in November 1981. It established that an individuals occupational group, department and salary level were determined by religion. He concluded "*religion has a distinct unique effect ... (which) cannot be swallowed up in any combination of the effects of the other three variables*".¹⁵¹ Miller had conducted a log liner analysis by breaking down around 585 occupational categories into salary scale equivalents and testing for significance. He found strong associations between four primary variables: religion, occupational group, salary level equivalent, and department were strongly associated. Miller found that,

“an inescapable conclusion is that regular, cumulative, religious disparities do appear. Those results cannot easily be explained away by ascribing the disparities to the indirect effects of other variable. The results assume even more import when one also considers that all the analysis is internal to the civil service and does not take into account that Roman Catholics are under-represented within the Civil Service as a whole in comparison to their representation within the general population of Northern Ireland”.¹⁵²

This finding proved uncomfortable to the Agency Board and the civil service who immediately rejected it. Pearn persuaded the Agency to commission the Institute of Manpower Studies from the University of Sussex to apply their manpower modeling techniques to explain this distribution and secondly to project employment patterns forward to 1990. The IMS showed a younger age profile of Catholics in the service due to their more recent recruitment. Secondly that the Catholic “promotional lag” was not overcome in later years and that this promotional disadvantage held for all occupational groups investigated regardless of gender or educational qualifications. If all things were equal between both religious groups then 1 to 1 and a half percent more of Catholics would reach the highest pay level compared to about one half per cent of the Protestants. For other grades the range would vary between two and 7%.¹⁵³ Thus without an aggressive intervention patterns of inequality would remain well into the 21st century.

¹⁵⁰ FEA Advisory Group meeting 23rd June 1981.

¹⁵¹ Miller, R. “*Analysis Results –Incorporating Occupational Groups and Pay Levels*”, July 1981.

¹⁵² Miller, Robert. (July 1981 and 19th November 1981), *Analysis Results, Incorporating Occupational Groups and Pay Levels*, p.21. Unpublished.

¹⁵³ Institute of Manpower Studies (1983), ‘Report of an Investigation by the Institute of Manpower Studies into the Non-Industrial Northern Ireland Civil Service’, Fair Employment Agency, Belfast. See also Miller, Robert. ‘Evaluation Research in a Politicized Context: An Investigation of the Northern Irish Civil Service by the Fair Employment Agency’, (December 1987), unpublished.

Pearn in correspondence with Miller recalling the dispute gave his view that while Miller as a,

“university-based social scientist (who) is primarily concerned with correct methodology and validly drawn conclusions .The FEA is similarly concerned with this form of “truth”, but it must measure its success by criteria which may not all be the same as yours”.

He continued with regard to his role in meeting the civil service “counter-analysts”, and his correspondence with the FEA, as an

“attempt on my part to get the balance right between a report that had enough of the truth in it, and in a form that could not be denied, but not so uncompromising in its approach that the report as a whole would be rejected out of hand. The subsequent decisions by the FEA to modify substantially the nature of their original draft report and to incorporate findings of the NICS were made entirely without my involvement”.¹⁵⁴

As Miller defended his analysis the civil service and FEA combined to produce a version that was more amenable to the prevailing political situation. The civil service enquiry had by this time become of sufficient importance in the USA that the British Information Services Office (BIS) in Washington produced a press statement and briefing note for US senators. The agreement to include Miller’s dissenting report was rescinded. Miller later concluded,

“One cannot so easily explain why the Fair Employment Agency apparently acquiesced to (in fact, actively assisted in) the reformulation of its own investigation along lines that it knew were in error and that would seriously weaken its impact. Taking the published Fair Employment Agency report seriously would lead one to conclude that no problem in fact exists and that the personnel policies in effect at the time of the investigation had been adequate for securing equality of opportunity”.¹⁵⁵

As the consultants from the Institute of Manpower Services at Sussex University upheld Miller's central analysis he went further and demonstrated that a rewrite by the civil service was at odds with the actual data and "totally incompetent" or a deliberate mystification of the results.¹⁵⁶ By 1983 the wrangling continued as the civil service

¹⁵⁴ Pearn, Michael. PKA Occupational Psychologists, to Robert Miller, 14th May 1987.

¹⁵⁵ Miller, Robert., ‘Evaluation Research in a Political Context’, (1987), p.22.

¹⁵⁶ FEA *Advisory Group* meeting, 16th November 1981, *Research Sub-committee* 3rd December 1981.

supported by the FEA blocked progress. Pearn informed the FEA in February 1983 he was "distressed" at the turn of events and the non-publication of the investigation. Sefton went as far as flying to Heathrow airport to meet Pearn, as he was en route to another destination to persuade him to adopt a position at odds with Miller. In a confidential letter to the FEA in September 1983, Pearn stated what "no analysis by the civil service can challenge is that there is, or has been a lack of equality of opportunity for Catholics within the civil service".

The story was leaked to *The Times* in October and became an issue in the USA.¹⁵⁷ The Irish American lobby demanded to know why 'if a public service totally controlled by government is a major discriminatory employer what hope was there to end discrimination in any sphere of employment?' Miller's analysis had indicated that even if equality of opportunity existed forthwith, the patterns of inequality would remain well into the next century. As public criticisms mounted the FEA and NIO rushed out an agreed version in December 1983. The British Information Office in Washington mounted a news blitz claiming "Report Finds No Discrimination". Recruitment and promotion procedures were described as fair and "substantial discrimination", was referred to as something which occurred in the past. They asserted that "For the modern civil service, (the almost 15,000 officers recruited since 1967, who made up three quarters of those studied by the FEA) religion determines neither their job prospects nor their salary levels".¹⁵⁸

This conclusion was in direct contrast to the unexpurgated findings that stressed the "distinct and unique effect " of religion. Furthermore as 60% of this 15000 were recruited under Direct Rule, the responsibility for existing inequalities lay firmly with the British government. Cooper also reneged on agreements with Miller that a dissenting report by him would form part of the appendices. Miller stated, "The Agency has thrown away the only real lever it had. The civil service could now say what is the need for affirmative action when things are going all right as they are?"¹⁵⁹ The FEA's former research officer (the author) who devised and participated in the investigation stated the:

"record of the FEA offers no evidence to suggest it is concerned with

¹⁵⁷ *The Times*, 10th October 1983.

¹⁵⁸ 'Northern Ireland: Fair Employment Agency report on Civil Service Finds No Discrimination', BIO 9th December 1983, USA,; James Prior Secretary of State, NIO, 8th December 1983.

¹⁵⁹ *Sunday Tribune*, Dublin, 19th February, 1984, and Miller to author.

anything but the maintenance of the status quo and the continual direct intervention, formally and informally of government ministers to ensure little or no progress, suggests that Westminster has deliberately opted for a policy of containment rather than confrontation with sectarianism".¹⁶⁰

Cooper made strenuous efforts to suppress any other version of events. From 1986 -1987, he made a major effort to prevent the *Journal of Social Policy*,¹⁶¹ from publishing a paper "*Evaluation Research in a Politicised Context*", by Miller. It detailed the "regular, cumulative disparities in favour of Protestants, particularly at higher ranks ... and projected that the disparities would persist for at least a decade". He also recorded how, "under pressure from the civil service the FEA subsequently reversed the majority of its findings and incorporated alternative work by the civil service into its report".¹⁶² Miller however made the mistake of advising colleagues engaged with the FEA and actually sent a draft to the civil service for comment. Cooper responded by sending letters to the JSP demanding the publication be suppressed under threat of legal action.

Cooper's letters and telephone calls to Dr. Alan Deacon editor of the *JSP*, declared the article contained "distortions which would call into question my integrity and that of members of the Agency". He dismissed the article as one which "grossly misrepresents the position and relies heavily on speculation and innuendo".¹⁶³ The JSP editor offered Cooper a right of reply in the same issue. Leading external referees confirmed the merits of the piece, Pearn urged the JSP to publish and the FEA's former research officer offered to verify the accuracy of the analysis. Cooper declined the challenge and instead threatened "to consider taking legal action for defamation".¹⁶⁴ As the JSP's deadline arrived the article was withdrawn "without prejudice to the final editorial decision". Cooper had achieved an NIO primary objective, secrecy and silence. In May Cooper flew out to the USA to support the NIO's anti-MacBride campaign in California. The 1987 British general election proved timely as a series of questions had been tabled challenging the FEA and

¹⁶⁰ Graham, D. 'Discrimination in NI: the failure of the Fair Employment Agency', *Critical Social Policy*, Spring 1984. See also *Critique* 16, A State Beyond Reform, pp.66-71, 1983.

¹⁶¹ *JSP*, Cambridge University Press.

¹⁶² Miller, R. '*Evaluation Research in a Politicised Context: An Investigation of the Northern Irish Civil Service by the Fair Employment Agency*', 1986.

¹⁶³ Cooper, R. Chair of FEA to Editor *Journal of Social Policy*, 26th January 1987; Editor of JSP to Cooper, 4th February 1987; Cooper to Editor JSP 20th February 1987 and 9th April 1987.

¹⁶⁴ Cooper to JSP, 9th April, 1987.

NIO to explain their role in this matter.¹⁶⁵ When questions were finally asked in 1988, Ministers refused to place the original reports in the Commons library and claimed direct answers could not be given as the FEA is "independent of Government".¹⁶⁶ The opportunity to engage in public discourse on the application and promotion of the law was denied.

As Pearn had stated earlier the "subsequent decisions by the FEA to modify substantially the nature of their original report and to incorporate findings of the NICS", severely undermined any credibility the work might otherwise have had.¹⁶⁷ In the long term it means that any monitoring work carried out by the civil service, such as that in 1986 and 1987 which used a flawed enquiry as its base line cannot be taken at face value. The civil service has in effect deprived itself of an independent basis for monitoring progress and placed the equivalent of a statistical albatross around any of its equal opportunity reporting. In its monitoring return to the FEC in 1991, the NICS reported that Catholics accounted for 12,201 or 33.7% of the workforce. In the very same year as Ministers proclaimed all was well in the service, the Derry Recorders Court was hearing a case of discrimination by the DoE which involved the Masonic Order conspiring to ensure a Catholic was not promoted to a senior post. The publication by the FEA of a report largely dictated by the civil service which Miller decried as one that goes "against the bounds of common sense", did nothing to promote confidence in the service or the FEA. By such activity and the overt participation in the government's anti-MacBride campaign, Cooper's singular achievement was to make the FEA indistinguishable from any other British agency in a tawdry propaganda war.

Conclusions.

The civil service was merely one investigation among many that was either not published or so reduced that the objective of education could not be realised. The manner by which

¹⁶⁵ Mitchison, Amanda.& Graham, D. 'Suppressed Report sparks Ulster row', *New Society*, 26.June,1987, and Graham, D. *Labour and Ireland*, No.17.,1987

¹⁶⁶ Marshall, Jim. MP, Written Questions, *Hansard*, Cols. 197, 198, 206, 26th February 1988; Cols. 78,120, 2nd March 1988..78, 120, 2. March, 1988)

¹⁶⁷ Pearn, M.A., 'Assessors Report on the Investigation and the NICS Response to the Agency's Report in Draft', Esher, Surrey: Saville & Holdsworth, Ltd.; Pearn, M. Correspondence to Miller, R. 14th May 1987 with copy sent to Peter Sefton FEA.

such work was treated by the FEA time after time alongside their resistance to the full application of law simply reflected the contradictions and tensions prevalent in NI. By so doing the FEA failed to meet Cameron's original objectives. They failed to meet the requirements of the situation and they failed to advance the pursuit of equality of opportunity. Attributing the lack of inequality to the individual actions of potential employees who chose not to apply for jobs as they did in the 1978-83 engineering enquiry may have in the words of Agency Member, Tom Conaty, been a "gut reaction". If so it was one that blamed the individual for a lack of courage in entering a workplace that was wholly hostile. It also sought to absolve the FEA for failing to vigorously enforce its enforcement powers or challenge employers. The courts shared this cultural milieu. The net result was an internal implosion lasting five years on issues of principle and practice. The evidence presented in response to the challenge by staff shows that the FEA displayed the worst virtues of a discriminatory employer. The matters at the centre of this conflict were not normal industrial relation matters but issues at the heart of the Fair Employment Act and the manner by which the Agency failed to carry out these responsibilities. In a small conservative society characterised by conflict that challenged the role of the state and its legitimacy there could only have been one outcome. The internal struggle had to be crushed. This enabled the Agency to maintain its very low key strategy of avoiding engaging the wider public, private and public sector in an educational or enforcement process that exposed both historical inequalities, contemporary practices and their enduring strength. The end of the internal challenge meant that the Agency's complacency and ineffectiveness remained.

To do otherwise would have required confronting the political and economic rationale of discrimination and the role of government in reinforcing existing inequities. The *Cameron Report* had stressed that the primary function of equal opportunity law was "to secure on all sides loyal acceptance of the Constitutions of Northern Ireland".¹⁶⁸ By embracing this objective, any agenda must necessarily have as its starting point the union and loyalty to the crown. This in turn meant that the vital relationship between a Protestant skilled workforce and unionism could not be broken. Inequality in terms of access to the labour market was not an aberration in NI. It was an essential part of its character and dynamics. To challenge its fundamentals and endeavour to reverse such historical inequalities was

¹⁶⁸ *Cameron Report*, p.58. September 1969, Belfast HMSO.

not the purpose of the 1976 Act. Its primary purpose was to ameliorate the conditions within the labour market by giving it a credibility that neither employers or the workforce desired. At this stage in the evolution of equal opportunity laws the FEA was simply not capable of taking the Act beyond their own cultural limitations and vision that were primarily one of sustaining the unionist edifice. This was their “gut reaction”. To do anything else would have required reversing employment inequalities at the expense of Protestant opportunities and employment. This was not on anyone’s agenda.

The success of this policy however became unstuck as the Irish American lobby adopted a more aggressive institutional shareholders attack on the failure to provide equality of opportunity by American companies in NI. This developed into the MacBride Principles Campaign which was complemented by a lobby in NI and Britain which constantly challenged the efficacy of the FEA, its failure, leadership and readiness to adopt an approach which was wholly partisan. The FEA had by this stage become a propaganda liability not an asset. The British government reflecting the changing international context chose to act. The next chapter examines its response - the SACHR Review - and the impact of the MacBride campaign on the equalities agenda in NI.

CHAPTER 8. THE BRITISH GOVERNMENTS RESPONSE.

Introduction.

Two additional pressure points occurred. The first was a critical equalities review carried out by the Standing Advisory Commission on Human Rights for NI (SACHR).¹ The second was the development of the MacBride Principles Campaign. Together they laid the ground for the 1989 Act reforms and the creation of the Fair Employment Commission.² Both parties in their reports and campaigns alongside the Irish government under the 1985 Anglo-Irish Agreement can claim the credit for taking equal opportunities into the mainstream of political and public debate.³

Another new beginning.

A critical political period for the British government in the US and Europe was 1985-1988. Irish-Americans and the European courts seemed to be handing down one propaganda problem after another. This was coupled with the major impact of Sinn Fein as political representatives and MP's on the local and national fronts alongside loyalist protests at the Anglo-Irish Agreement on the shop floor. The absence of equality, intimidation on the shop floor and findings by the European courts that Britain was guilty of abusing human rights in NI became sustained international issues. During these three short years an unprecedented range of reports, reviews and draft legislation were produced. The Secretary of State asserted the government was committed to the 'merit principle' and wished to place equal opportunity policy on the "soundest foundation for future development". The failure of the FEA was in effect conceded. The DED "*Future Strategy Options*" review noted that:

“At the same time it has to be recognised that progress is slow and unsatisfactory.. the message of equality of opportunity in employment does not appear to making a significant impact in relation to any dimension.”⁴

¹ SACHR. Religious and Political Discrimination and Equality of Opportunity in Northern Ireland, Report on Fair Employment, Cm 237, HMSO, October 1987.

² The Fair Employment (NI) Bill 1989 received Royal Assent on 27th July 1989 and came fully into effect on 1st January 1990.

³ Article 6 of the November 1985 *Anglo-Irish Agreement* provided for the Irish government to put forward views and proposals for a number of bodies including the FEA and EOC(NI).

⁴ Equality of Opportunity in Employment in NI. *Future Strategy Options*, A Consultative Paper, pp.20-21, 16th September 1986, DED Belfast HMSO.

The DED also noted that since 1981 the government did not “normally” accept tenders for contracts unless they held an FEA certificate – the Declaration-:

“but there is no systematic monitoring of certificate holders’ practice..... certification -once obtained – usually remains undisturbed and unchallenged. In the absence of effective monitoring it is impossible to be satisfied that all those certified are providing equality of opportunity in employment.”⁵

The Fair Employment Commission (FEC) was, remarkably, introduced under the same chairmanship although the managerial responsibilities were shifted to a new post. The FEA’s powers to hear individual complaints were passed to a new Fair Employment Tribunal divorced from the FEC. This was in response to the many criticisms leveled at the manner and inordinate length of time the FEA took to process cases. This meant the onus was on the new FEC to select strategic cases that would have a potentially wide impact on employment. The Agency Board opposed both the creation of the FEC and this emphasis in particular on the grounds that as one Board member put it:

“To move to a system of sponsoring only strategic cases will inevitably mean that sponsoring would virtually always be offered to Catholics as very few, if any, cases involving Protestants would set precedents. This would lead to unnecessary Protestant and unionist alienation”.⁶

He added with reference to the creation of the FEC that, “It will be tainted as a partial rather than an impartial body, supporting Catholics rather than equality for all”. For its part the government made it clear that they opposed quotas or reverse discrimination on moral grounds and because they were “inconsistent with the merit principle”.⁷ This was put more bluntly by the Secretary of State Tom King when he opened a debate on the new legislation in the House of Commons on 1st July 1988. Referring to the principle of merit he stated:

“We have set ourselves against quotas and reverse discrimination. Their effect could be catastrophic, in the climate of Northern Ireland, to the acceptance by the wider community of the fairness of equal opportunities proposals”.⁸

⁵ Ibid. p.22.

⁶ Paul Donaghy Agency Board and NIPSA Council member to NIC ICTU conference press report, 21st April 1988, quoted in *An Phoblacht/Republican News*.

⁷ *Future Strategy Options*, DED, p20 1986.

⁸ Tom King MP, Secretary of State, 1st July 1988, NIO press statement.

At the same time he stated a willingness to use the “government’s economic muscle to support good practice”, while simultaneously adopting the position that, “We do not want to transfer hardship from one section of the community to another”.⁹ Thus as legislation changed the risk remained that to tackle structural inequalities would be to risk political catastrophe. The prevailing “climate” was the “Protestant heritage”. The Secretary of State’s dire warning was probably correct. That however was no more than an admission that the prevailing mores of NI’s Protestant labour market must remain essentially the same. The “wider community” was the majority Protestant community. For equal opportunity laws to be acceptable they must be demonstrably not capable of reversing the status quo. Fairness in an area of consistently high unemployment rates would mean that the success of the individual may be acceptable as long as this individual did not represent part of a programme that would create the conditions for the success of a whole community. The exception to the rule. The core objectives of both Acts were namely to ameliorate conditions for the individual at the point of access to employment. By so doing the deduction was that the institutions of NI would gain credibility and acceptance among those opposed to them. The difference between the Acts was the 1989 Acts’ potential to manage matters more efficiently. Responsibility for individual complaints was given to a separate tribunal, compulsory monitoring by employers of their workforce was introduced and the capacity to remove an equality certificate by linking its validity to tender acceptance and potential grant denial for government contracts was reinforced. Indirect and direct discrimination was outlawed. The FEC's chairman, however, maintained his stance that he could not envisage removing an employer from the register of equal opportunity employers. The government now presented equality of opportunity as “fundamental to a democratic and mature society”.¹⁰ Part of this maturity was the presentation of some difficult facts in relation to inequalities. The government published its research accepting:

"that between 1971-85 the Catholic community's disadvantage in employment remained both quantitative and qualitative, (even in areas of relatively high unemployment) and persisted despite progressive convergence of educational attainment between the two communities".¹¹

⁹ Tom King MP, Secretary of State, 25th May 1988, NIO press statement. See Fair Employment in NI, White Paper, May 1988, London HMSO, Cm.380.

¹⁰ *Future Strategy Options*, p3, Department of Economic Development, Belfast, HMSO, September, 1986.

¹¹ *Ibid.* p.5. Also see Appendix 1 Tables 2 and 3.

Catholic male unemployment rates remained 2.5 times that of Protestants. For Catholic women the rate was 1.5 times. In terms of occupational categories Catholics composed 16% at the professional and managerial levels and 12% of the skilled manual class. Women were concentrated in low status occupations with over one third employed part-time. Catholics endured longer terms of unemployment, and worked in semi and unskilled occupations that were more susceptible to recession and recurrent high rates of unemployment. Patterns of inequality at the occupational and structural levels for Catholics had not improved under Direct Rule While the traditional Protestant East and Catholic West divide remained the DED noted the existence of widespread differentials with Catholic unemployment generally twice as high in most areas.

The DED concluded that to attribute these inequalities solely to discrimination would be "misleading because the operation of any labour market is always complex". These findings confirmed however the unique and historical influence religion as the expression of political power and patronage has had on the labour market. For example the DED referred to a "high level of immobility", by the population seeking work, combined with the fact 71% of Catholics and 45% of Protestants live in the less industrialised areas of the Province". They asserted these indigenous factors directly contribute to "the high unemployment rate among the Catholic community".¹² Within this context the DED concluded, "Equality of opportunity in employment is of vital concern in Northern Ireland ...It is fundamental to a demonstration of a mature society".¹³ The enduring nature of the religious differentials and the scale of the challenge they presented may be more fully grasped by reference to successive census and occupational data. The 1971 Census showed that overall the Catholic unemployment rate was 2 and one half times that of Protestants. For Catholic males it was slightly higher.

Table I. Unemployment Rates for Catholics and Protestants.

	%	%	%
	Males.	Females.	All.
Protestant.	6.6	3.6	5.6
Catholic.	17.3	7.0	13.6

Census of Population 1971, Religion Tables.

¹² Ibid. p.9-11.
¹³ Ibid., p.3.

These difficulties were compounded by the location of Catholics in occupations with her rates of unemployment such as clothing, footwear and construction. For Catholic women, clothing and footwear followed by Professional and Scientific Services and Miscellaneous Services were significant sources of employment. Protestants dominated engineering, utilities, insurance, banking, finance and business services. Table II shows the wider distribution for Protestant males as compared to the concentration of around 56% of Catholic males in four occupational classifications.

Table II. Proportion of all Catholics and Protestants in Industrial Orders.¹⁴

¹⁴ 1971 NI Population Census, Religion Tables, (1975) Belfast, HMSO. The base line for the table is the total population enumerated as Catholic and Protestant economically active and in employment. See also the Second Annual Report, FEA, 13th June 1979, pp. 8-13. Belfast, HMSO.

Proportions of all Catholics and Protestants in Industrial Orders
(Base—Total population enumerated as Catholic and Protestant economically active and in employment)

<i>Industrial Order</i>	<i>% Roman Catholic</i>			<i>% Protestant</i>		
	<i>All</i>	<i>Male</i>	<i>Female</i>	<i>All</i>	<i>Male</i>	<i>Female</i>
I. Agriculture, Forestry and Fishing	9.5	14.3	0.8	9.6	10.9	1.3
II. Mining, Quarrying	0.5	0.7	—	0.4	0.5	0.1
III. Food, Drink and Tobacco	3.7	3.9	3.4	5.1	4.9	5.4
IV. Coal and Petroleum Products	—	—	—	—	—	—
V. Chemicals and Allied Industries	0.3	0.4	0.1	0.4	0.4	0.2
VI. Metal Manufacture	0.1	0.1	—	0.1	0.2	—
VII. Mechanical Engineering	1.3	1.8	0.3	2.5	3.3	1.1
VIII. Instrument Engineering	0.3	0.3	0.3	0.4	0.4	0.5
IX. Electrical Engineering	1.8	1.6	2.2	2.8	2.5	3.3
X. Shipbuilding and Marine Engineering	0.3	0.5	—	2.4	3.6	0.2
XI. Vehicles	0.8	1.1	0.2	2.2	2.9	0.6
XII. Metal Goods not elsewhere specified	0.6	0.8	0.3	0.8	0.9	0.5
XIII. Textiles	6.7	5.8	8.3	8.0	7.1	9.9
XIV. Leather, Leather Goods and Fur	0.2	0.2	0.2	0.1	0.1	0.1
XV. Clothing and Footwear	6.9	1.2	17.3	3.6	1.0	8.5
XVI. Bricks, Pottery, Glass, Cement	0.8	1.2	0.2	0.8	1.1	0.3
XVII. Timber, Furniture, etc.	0.7	1.1	0.2	0.8	1.1	0.3
XVIII. Paper, Printing and Publishing	0.9	0.9	0.8	1.4	1.4	1.3
XIX. Other Manufacturing Industries	1.6	2.1	0.7	1.4	1.6	0.8
XX. Construction	14.6	22.4	0.7	8.5	12.6	1.1
XXI. Gas, Electricity and Water	0.8	1.2	0.2	1.7	2.4	0.5
XXII. Transport & Communication	4.6	6.3	1.5	4.7	6.1	1.9
XXIII. Distributive Trades	11.9	11.1	13.5	14.2	12.1	18.1
XXIV. Insurance, Banking, Finance and Business Services	1.4	1.2	1.8	2.7	2.3	3.4
XXV. Professional and Scientific Services	14.0	6.4	27.7	12.7	7.1	23.2
XXVI. Miscellaneous Services	10.7	8.5	14.6	8.0	5.9	12.1
XXVII. Public Administration and Defence	4.4	4.5	4.2	6.5	7.2	5.1
TOTAL	100	100	100	100	100	100

Figures may not exactly total 100 due to rounding.

Source: 1971 Northern Ireland population census: religion tables.

These differentials were reflected across the region so that in 'peripheral' areas Catholics experienced two and three times that of Protestants. The strength of the East/West divide was evident in that 52% of the Catholic male workforce as compared to 26% for Protestants were located in such areas as Derry, Fermanagh, Newry and Mourne, etc. The DED's analysis for the period 1971-1985 confirmed the depth of this problem. They noted that increased unemployment had adversely affected both communities. For Protestants the overall unemployment rate had doubled from 6% in 1971 to 13% in 1985;

with the female rate moving from 4% to 11%. However despite higher levels of unemployment in both communities, the differential experience of the Protestant and

Catholic communities endured between 1971-85.¹⁵ Again this phenomena remained consistent across the region and within occupational classifications as shown by Table III and Figure I.¹⁶

Occupations of the Employed Population by Religion				
Occupational Order	% Roman Catholic	% Protestant	% Not Stated	% Total
1. Professional & related supporting managment; senior national & local government managers	15.7	67.3	17.0	100.0
2. Professional & related in education, welfare & health	30.7	52.2	17.1	100.0
3. Literary, artistic & sports	17.6	57.8	24.7	100.1
4. Professional & related in science, engineering, technology & similar fields	14.5	66.6	18.9	100.0
5. Managerial	21.5	63.4	15.2	100.1
6. Clerical & related	20.1	62.9	17.0	100.0
7. Selling	19.0	64.8	16.2	100.0
8. Security & protective service	10.9	75.2	13.9	100.0
9. Catering, cleaning, hairdressing & other personal service	26.9	56.7	16.4	100.0
10. Farming, fishing & related	23.3	61.0	15.7	100.0
11. Materials processing; making & repairing (excluding metal & electrical)	27.4	55.1	17.5	100.0
12. Processing, making, repairing & related (metal & electrical)	18.0	65.1	16.9	100.0
13. Painting, repetitive assembling, product inspecting, packaging & related	22.6	61.0	16.3	99.9
14. Construction, mining & related not identified elsewhere	33.8	47.0	19.1	99.9
15. Transport operating, materials moving & storing & related	23.9	58.4	17.7	100.0
16. Miscellaneous	25.2	57.2	17.6	100.0
% Total economically active population	25.7	56.3	18.0	100.0

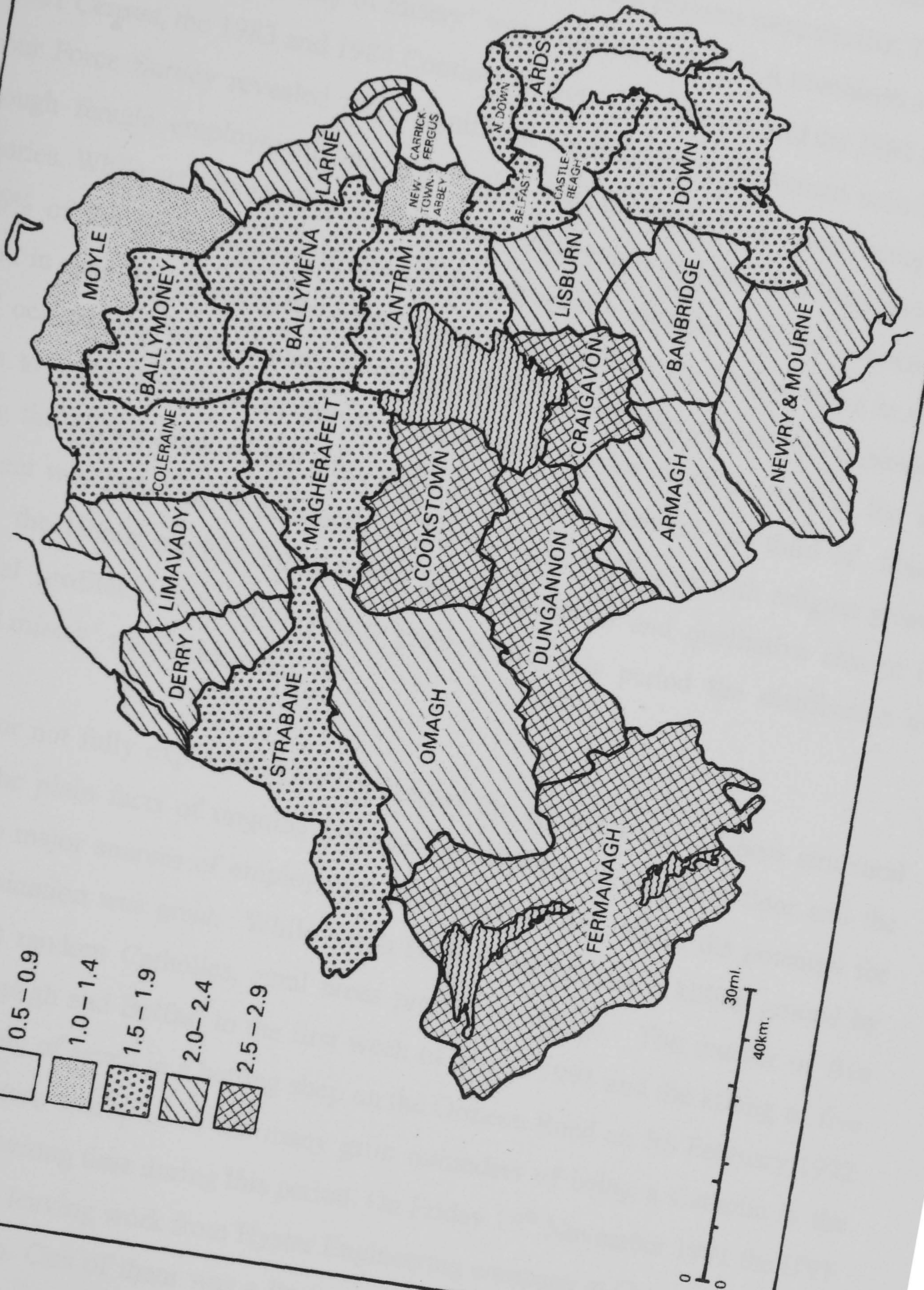
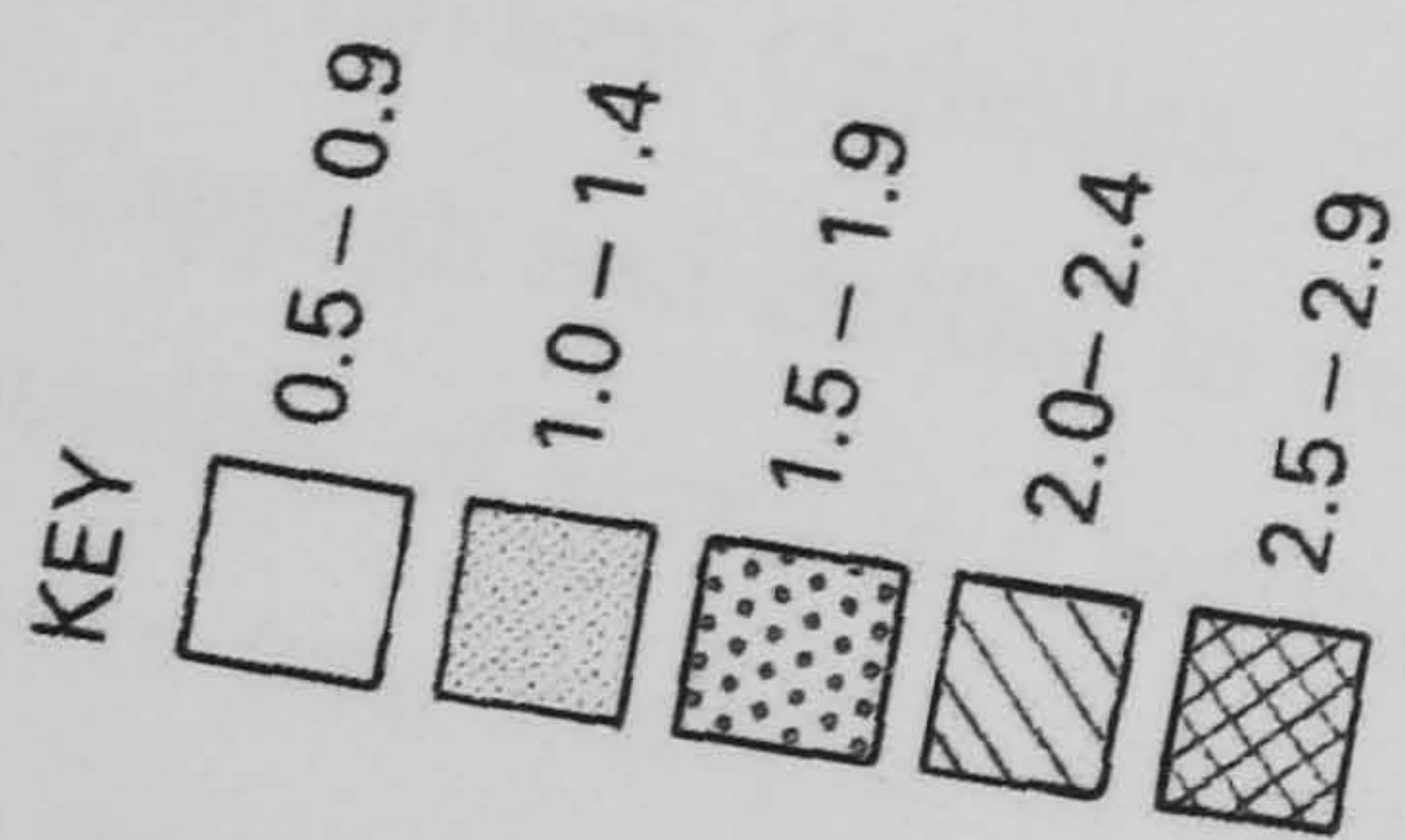
Source: 1981 Northern Ireland population census: religion report

¹⁵ *Future Strategy Options*, (1986), p.6.,DED, Belfast.

¹⁶ *Ibid.*, Appendix I, p.49, Appendix X, p.67.

SPREAD OF COMMUNITY EMPLOYMENT DIFFERENTIAL

Catholic-Protestant unemployment ratios:



The 1981 Census revealed higher Catholics rates of unemployment in all of the 26 District Council areas except Carrickfergus and Castlereagh (Figure I). In areas such as Armagh, Cookstown, Craigavon, Dungannon, Newry & Mourne and Derry, Catholic male unemployment rates were twice as high. For women the patterns were similar. This led the DED to conclude that 'equality of misery' was a misconception.¹⁷ A combined analysis of the 1981 Census, the 1983 and 1984 Continuous Household Survey and the 1984 and 1985 Labour Force Survey revealed three significant characteristics of women activity rates. Although female employment had grown this was principally in lower occupational categories. While activity in clerical and related occupations had increased they accounted for 16% of the professional and managerial categories. Around 75% of women were engaged in catering, cleaning and hairdressing occupations while 12% of those in skilled manual occupations were women. In overall terms the position of women remained the same as at 1971. Differentials between males and females were greatest in the East reflecting the higher rates of full time male employment. Around one third of female employment was part-time as compared to 2% for men.¹⁸ Thus as with religion greater entry into the labour market did not lead to an inevitable and qualitative change in occupational profiles. As unemployment grew during this period the distribution of 'differential misery' was widespread.

Another factor not fully explored that compounded the consequences of these structural issues were the plain facts of ongoing physical intimidation on the shop floor and the location of the major sources of employment in Protestant areas where the potential for sectarian assassination was great. While North Belfast had become a killing ground by loyalists against random Catholics, rural areas proved no refuge. The murder of five Catholics in Cappagh and Belfast in the first week of March 1991 and the killing of five more and wounding of seven in a betting shop on the Ormeau Road on 5th February 1992 by loyalists were two examples of the many grim reminders of being a Catholic in the wrong place at the wrong time during this period. On Friday 15th November 1991 the UVF killed three workers leaving work from Hyster Engineering company at Craigavon on their way home to Lurgan. One of them was a Protestant. The UVF said it "deeply regretted" the death of their Protestant victim. A total of 84 people had been killed. The UFF/UDA declared, "the only time the UVF will stop is when the Provisionals stop murdering our

¹⁷ Ibid., p.11.

¹⁸ Ibid., Appendix III, Appendix IV, pp. 52-55. See 1981 Census Religion Report, HMSO Belfast 1984.

people”.¹⁹ This was the harsh reality of the period.

The DED did recognise "that equality of opportunity in employment does not follow automatically from the fact that discrimination is illegal". They also contradicted the FEA/FEC chairman's view that little could be achieved because of unemployment by stating:

"The moral imperative of equality of opportunity in employment is such that it cannot be made dependent upon the prevailing economic situation. Indeed the consideration of more effective policy options is all the more necessary when economic conditions are unfavourable in order to prevent existing differentials from getting worse".²⁰

This was precisely what the government and FEA had failed to do. The civil service was promoted by the DED as a leadership model for the private sector to emulate in its employment practices. The DED noted that when the Declaration was linked to tender acceptance in 1981, the number of signatories rose from 2500 to 8000. This represented a "potentially most useful lever and that it should remain". The DED reassuringly informed the private sector that such leverage on this sector must be restricted to the "unavoidable minimum". The government's philosophy of enforcement was made clear in their position statement that "the excision of any company from a tendering list would represent a defeat for the positive policy of promoting equality of opportunity". For good measure they added government's acceptance that "implementation may be slower in the private sector generally than in the public; companies will need to adapt recommended practices to their own particular requirements. In effect companies will need time to adjust; ...".²¹

Although the Declaration and its link to government contracts would change to a matter of employers' practice rather than intent its implementation would be regarded as a defeat rather than a positive and forceful message to employers. The impact on employers in terms of achieving a rapid cultural shift in attitude was still not grasped. This particular provision had been at the centre of major conflicts within and outside the FEA. Its

¹⁹ *The Guardian*, press reports, 16th November 1991. For accounts of Provisional IRA activity see Harnden, Toby. (1999) *Bandit Country, The IRA & South Armagh*, Hodder & Stoughton; Taylor, Peter. (1997) *Provos, The IRA and Sinn Fein*, from the BBC TV series, Bloomsbury and Smyth, Marie, 'The human consequences of armed conflict', Ch.9. pp.118-135 in Cox, Michael. Guelke, Adrian and Stephen, Fiona. (eds.) *A farewell to arms?* (2000) Manchester University Press.

²⁰ *Future Strategy Options, DED*, 1986. p.13

²¹ *Ibid.* pp. 28-31.

concession was made at the height of the Hunger Strike. Not a single employer had suffered under its provisions. The government was now saying that despite thirteen years of equal opportunity legislation employers still needed time to adjust and if at all possible this provision would not be applied. Employers were therefore aware that unless their practices were absolutely blatant little would happen. They had been given the freedom to attribute any patterns of inequality to the historical situation and or the attitudes of the workforce. They had in effect been given 'a get out of jail free card'. Cooper's submission to the SACHR review on this point strongly supported this position and opposed any form of positive action that included specific goals and objectives with timetables to achieve change. He argued this approach represented "preferential treatment" and a "reversal of the merit principle".²²

In the US by comparison the application of quotas, goals and targets, required employers to provide training in and outside the workplace to ensure the opportunity of gaining any appropriate skills was a possibility. It is important to note in this context that targets for increased minority representation are not based on recruiting a person who cannot do the job. They are specific objectives established within the framework of a complete equal opportunity programme which is directed at enabling those previously denied access to employment to gain entry to the market place on an equal footing. Targets and timetables provide benchmarks for measuring performance and taking corrective action if required by statutory agencies and employers themselves. They are totally in accord with competition at the point of entry to the labour market and reflect a desire to provide the gel for securing an accommodation where division exists. This practice covered 300,000 companies employing 41 million people in the US. The Office of Federal Contract Compliance Programmes assessed compliance in 6000 companies annually where it judged there was under-employment of blacks and women. This enabled employers to eliminate or tackle manifestations of discrimination by having goals and timetables whereby progress could be measured in the public domain. The OFCC was also subjected to criticism for not doing enough and failing to withdraw contracts. The difference however was the practice and expectation were very much part of the employment field and represented a powerful cultural and financial tool. The value of local and central government contracts at this time

²² Cooper, R. Chairman FEA, 1986. The SACHR review was published in October 1987 with an interim report published on 24th March 1987.

across Britain was estimated to be £34 billion.²³ During February 1986 the then Tory controlled House of Commons Select Committee declined to endorse contract compliance as a method of promoting equal opportunities at work.

Christopher McCrudden, as a member of the SACHR review team pushed for much stronger legislation than the FEA or government desired. He had previously conducted a review of American law and made a substantial submission to the American courts demonstrating the legality of the MacBride Principles. In SACHR's interim report on the government's proposals, he recommended any new law should expressly prohibit indirect discrimination and that voluntary agreements between employers and enforcement bodies must contain compulsory measures if they were to be effective. Compulsory monitoring of the workforce was regarded as fundamental. McCrudden argued that the new Declaration must have goals and timetables rather than a very loosely worded open-ended approach.²⁴

SACHR's 1987 report supported positive action programmes that targeted job advertisements at particular groups although they stopped short of the provisions then permitted under the British Race Relations Act 1976. These allowed specific training and recruitment programmes for particular minority groups when they are under-represented in the workforce or where membership of the group may be considered a genuine occupational qualification. When the government published a "*Guide to Effective Practice*", as its response to "*Future Strategy Options*" consultative process the Secretary of State's preface claimed the promotion of real equality of opportunity was one of its "highest political priorities essential for economic prosperity and fundamental to a democratic society".²⁵ He called on the community to work together to achieve this goal. As the guide was launched loyalist demonstrations were still taking place at Shorts and the chairman of LEDU, the government's small business agency was being accused of discrimination. The DED rejected positive action as "restrictive, inefficient, exclusive and

²³ Carr, John. 'Contract Compliance for the UK?', *Fabian Society*, February 1986. See also 'Government Contracts, and their Role in promoting Equal Opportunity in Employment', Race Relations Bill Briefing Group, *Runnymede Trust*, June 1974 London; Rees, Tom. 'Equal Employment Opportunity in the USA', August 1974, *Runnymede Trust*; Claiborne, Louis. 'Race and Law in Britain and the United States', *Minority Rights Group Report* No.22, December 1974; 'Contract Compliance Principles of Practice', *CRE*, September 1987.

²⁴ SACHR 'Interim Report on Employment', 24th March 1987; McCrudden C. *Equal Opportunities Review*, No.8, No.10, pp.17-21, November/December 1986, Industrial Relations Services, London.

²⁵ Religious Equality of Opportunity in Employment: *Guide to Effective Practice*, DED, September 1987.

unjust". Employers were further assured that should inequalities be apparent under the DED's seven-point checklist the DED would not conclude this implied "deliberate malpractice". The position on government contracts was weakened by the government's acceptance in its White Paper that suppliers and contractors who were in breach of their obligations under the Declaration:

"will not normally be eligible to tender for any significant government business (although occasional exceptions may be necessary on grounds of security or public interest, or where the work or goods could not otherwise be secured without disproportionate expense)".²⁶

Having laid great store in the moral objectives of fair employment and its potential to give "more people a stake in society and (is) a stabilising influence" in NI the government accepted there would be exceptions on grounds of cost and security interests. In NI a significant source of employment and sponsorship for defence research and production occurred at places such as Shorts and Queen's University Belfast with a reputation for discriminatory employment. The existence of this however could be immaterial to the award of any contract. The moral basis for any legislative code that seeks to accommodate those previously disenfranchised requires consistency without exceptions. To be otherwise is not a moral code but a political judgement influenced by a range of particular political circumstances and distribution of power. To apply a moral code in NI would have meant a host of private and public sector employers losing the privilege of access to government contracts and employment. Goals and timetables for applications and appointment subject to "good faith" without the capacity to prescribe specific percentages in a workforce were included in the Fair employment Bill.²⁷ The objective was to demonstrate "fair participation" not to impose quotas or reverse discrimination. Government defined the use of quotas as "reserving a set proportion or number of jobs for particular individuals or members of a particular group". This was rejected "as being wrong in principle and divisive and counter-productive in practice". They concluded to do so "would involve discrimination in favour of under-represented groups and against individuals from other groups". The government stressed that even when inequalities are apparent this "must not be allowed to influence employers when selecting for recruitment, promotion and lay-off".²⁸ The governments' position while being technically correct, the impact of quotas or

²⁶ Fair Employment in Northern Ireland, p.44. May 1988, London HMSO, Cm380.

²⁷ *Fair Employment Bill* in NI, DED, 15th December 1988. See also NIO press summary.

²⁸ Fair Employment in NI, *White Paper*, pp.30-31, 25th May 1988, Cm 380 HMSO.

reverse discrimination would mean precisely that, it does not accept the need to reverse these patterns of inequality via a direct and strategic intervention. The emphasis is again on the manner by which the individual is given 'fair participation' to the market. The market is accepted as a given entity that will enable this process to occur. The government thereby ignores its own evidence that the NI market has specific peculiarities militating against this process. This is a political decision not a moral one related to the concept of merit and quotas within the context of an unstable society. The government is simply recognising that to secure stability in NI is directly in proportion to securing the passive support of the "greater number" and at least the passive support of the Catholic middle class. The track records of many employers have rarely borne testimony that unequivocal declarations produced unequivocal practices promoting equality of access to the marketplace.

The SACHR Report.

The SACHR *"Report On Fair Employment"*,²⁹ was described by Kevin McNamara MP, then Labour's principal spokesperson on Northern Ireland, as "one of the most significant documents produced by a state agency in the recent history of Northern Ireland".³⁰ The report and accompanying analysis provided by the independent Policy Studies Institute was a watershed in terms of the equal opportunity debate. The analysis of the FEA's failure backed up by data confirming the entrenched nature of inequalities offered the government a significant challenge and opportunity.³¹ SACHR's recommendation that the FEA be scrapped and replaced by a more viable and energetic body fitted in neatly with the British Information Service Offices' (BIS) efforts in the US to signal it was getting tough on equal opportunities. Although Cooper was a member of the SACHR committee his public opposition to the direction the review took was deflected by the presence of those familiar with FEA failures. This included Christopher McCrudden and the FEA's

²⁹ SACHR. 'Religious And Political Discrimination and Equality of Opportunity In Northern Ireland', *Report on Fair Employment*. Cm237, London HMSO, October 1987.

³⁰ Speech by Kevin McNamara MP, Principal Opposition Spokesperson on NI, 28th November 1987, Conference, "Ireland: Cause of Labour? A trade union conference on employment discrimination and its context in NI".

³¹ *Policy Studies Institute*, 'Equality and Inequality in NI', Vols. 1-3, 'Employment and Unemployment; the Workplace; Perception and Views'; Smith, D.J. & Chambers, G. October 1987.

solicitor who was also chair of SACHR until 1988, Seamus O'Hara. Cooper declined to participate in the decision making of the final report.³²

O'Hara had submitted evidence to the Van Straubenzee Working Party on Discrimination in 1972, recommending a "a system of variable quotas".³³ The commissioning of the PSI, an established reputable body that had carried out the seminal work on racial inequality in Britain meant that a greater degree of independent academic scrutiny and rigour was achieved. Some unionist academics were given places on an advisory group that included a geographer, Paul Compton. His contribution to the debate on inequality was to recommend the mass emigration of Catholics, controls on their birth rate and to suggest there were only a fixed number of jobs for them in the first place.³⁴ The PSI was also less likely to be manipulated by the NIO or its agents.

SACHR's work proved weakest when it chose to simply repeat the 'accepted wisdom' of the government in relation to the economy. For example the level of inequality in the Catholic West during the 1970's was attributed to a "high level of paramilitary activity" and what were claimed to be the less attractive nature of areas to investors outside Belfast where Catholics predominate. This ignored the fact that external investment had already peaked by 1969-1970, leaving largely untouched the inherent structural inequalities promoted by the Stormont regime.³⁵ Production in factories and business in NI has only ever been significantly effected by loyalist strikes and protests, - "friendly fire".³⁶ While the IRA had proven their capacity to carry out small scale acts of sabotage by placing small bombs at Shorts and the shipyard, their economic impact is perhaps best measured in the size of insurance claims made against the NIO as opposed to any real impact on the economy. The real costs of a war economy have been in terms of maintaining the forces essential to contain the conflict. Economic commentators have consistently identified the source of the economy's shortcomings as partition, the narrow base and paucity of

³² This is noted within the *SACHR* report, p.v, Cooper in particular was opposed to the creation of a new industrial tribunal to hear cases outside the FEA and the creation of a new equality body.

³³ Seamus O'Hara, written submission to the *Van Straubenzee Working Party*, 1972.

³⁴ Compton, P.A. (ed) 'The Contemporary Population of NI and Population Related Issues', *Institute of Irish Studies*, Queen's University Belfast, 1981. See *SACHR Report*, p.41. Compton provided his papers to the FEA prior to publication which are much more explicit than the published document, 'Religious affiliation and unemployment in Northern Ireland'. See Ch.1. *New Beginnings* and discussion below.

³⁵ *The Quigley Report*, Economic and Industrial Strategy for NI: Report of the Review Team, Belfast 1976.

³⁶ Tomlinson, M. '25 Years On: The Costs of War and the Dividends of Peace', *West Belfast Economic Forum*, 8th August, 1984.

indigenous capital, the rapid decline of its manufacturing base and critically a total dependence on England, its major competitor.³⁷ Others have accepted that the deterrent factor of conflict cannot be fully evaluated but suggest the impact may have been around 30,000 manufacturing jobs.³⁸ The IRA bombing of the City in London had greater political and economic impact in terms of the confidence of foreign investors in London as a financial capital.

SACHR gave credence to Compton's view that "demographic characteristics", especially "family size", are one factor in explaining "the relative differences between Catholics and Protestants in employment and unemployment".³⁹ The acceptance of this rests upon a view that there will and always must be a fixed number of jobs already predetermined by the nature of the sectarian economy for Catholics. If this is accepted as the source of the unemployment differentials between Catholics and Protestants then arguments over merit, equity and morality are redundant. For this view is explicitly saying that the NI economy is fixed in favour of Protestants. The number of employment opportunities are such, that to maintain its character means there can only be a proportion set aside for Catholics. Compton then would be correct. To maintain this allocation of employment opportunities Catholics must emigrate. If Compton's views are accepted by government and SACHR all they are doing is reinforcing the evidence presented in this work that the economy has a particular characteristic where merit is linked to religious affiliation and entry to the active labour market is facilitated or impeded by religious identity. If this were not the case and the market was free from the impediment of religion then the question of differing fertility rates would not be a subject of debate that seeks to justify such inequalities. Compton has simply given expression to the fear and insecurities of the unionist viewpoint as a justification in itself for sustaining inequalities. He is also saying the responsibility for such inequalities is a result of individual behaviour independent of history, power and politics that have facilitated or denied access to the labour market and associated training opportunities. It is fatuous to suggest that if a community suffers from an intermittent

³⁷ cf. Barrit and Carter, (1972) Isles and Cuthbert (1957), Quigley (1976), Rowthorn, Bob. 'NI: an economy in crisis' *Cambridge Journal of Economics* 1981, 5,1-31, Academic Press, NIEC, Report 99, 'Inward Investment in NI', 1992; Report 111, 'The implications of Peripherality for NI'; Occasional Paper 4: June 1995, 'The Economic Implications of Peace and Political Stability for NI'.

³⁸ Moore, Barry., Rhodes, John. & Tarling, Roger., *Cambridge Journal of Economics*, (1978), 'Industrial policy and economic development: the experience of NI and the Republic of Ireland', pp.99-114, see p104-105; and Simpson, John. 'Job Creation in NI: Policies and Constraints', Ch.10, pp.245-272, see pp.247-251 in SACHR *Employment Equality in NI Vol.II, Policy Aspects of Employment Equality in NI*, (1997).

³⁹ SACHR *Report on Fair Employment*, p41, 1987 Cm 237, HMSO.

ability to gain employment, or that their place of location has as a result of strategic investment policies had a low number of job creation opportunities, and relies on welfare services as a consequence, that one single factor- family size- has created a state of unemployment that is inherent to that community.

David Smith, PSI’s lead researcher on the project in response to criticism of PSI findings by the NIO and Compton made a similar point. He said that the view that "excessive breeding" by Catholics was a root cause of inequality rested on the assumption there should only be a fixed number of jobs for Catholics. He added a difference in family size could not serve "as an explanation of the widely diverging rates of unemployment for Protestants and Catholics".⁴⁰

SACHR did conclude however, "that after taking account of a number of explanatory factors religion in itself is consistently and strongly related to the chance of being employed or unemployed".⁴¹ The PSI's analysis of census data, continuous household survey and labour force survey data demonstrated the success of discriminatory policies. Catholic rates of unemployment varied on average from, 2.5 to 3 times that of Protestants. More than half the Catholic males were unemployed for more than two years. This compared with 40% of Protestant males. Conversely 38% of Protestant males were unemployed for less than a year with 26% of Catholics. The pattern for women was similar. While the religious occupational divisions remained the growth area of security provided 30,000 overwhelmingly Protestant jobs. An analysis of the 1981 census indicated that to bring Catholic unemployment down to Protestant levels would have required up to 34,000 additional jobs for Catholic men and up to 8,000 for women.⁴² Table IV demonstrates how little change had occurred in differential rates of male unemployment.⁴³

Table IV. Male Unemployment rates for Catholic & Protestants, 1971,1981 and 1983-85.

Catholic	Protestant	Ratio of
(a)	(b)	(a) to (b)

⁴⁰ *Fortnight*, Belfast, 19th March,1988.
⁴¹ *SACHR Report*, p.15.
⁴² *Ibid*.p.23.
⁴³ Smith, David, J. *Equality and Inequality in NI Part I:Employment and Unemployment*, Policy Studies Institute, London 1987, Occasional Paper 39, P.40. Table 2.1. See SACHR, 1987 & 1990.

1971 Census.	17.3%	6.6%	2.6
1981 Census	30.2%	12.4%	2.4
1983-85 Continuous			
Household Survey.	35.1%	14.9%	2.4

Policy Studies Institute, Occasional Paper 39, p40. Table 2.1.

Inequalities East and West of the River Bann remained strong. Unemployment differentials ranged from 1.7 in Belfast to 2.6 West of the Bann. Notwithstanding these findings SACHR managed to make the remarkable claim, that:

"large and continuing differentials in employment and unemployment rates for Protestants and Catholics does not in itself show that there has been in the past or that there still remains any discrimination or inequality of opportunity".⁴⁴

This ahistorical approach is at odds with their own analysis and fails to offer any other explanation. The analysis by the PSI into factors such as age, class, education, family size, confirmed religion consistently acted as a major determinant in the reproduction of unemployment patterns. For SACHR’s claim to have any validity the development of NI’s history and its particular socio-political relations would have to be regarded as a value free development. The historical reality that NI’s formation was a direct result of a very active and violent political process is not generally disputed.

The PSI's interviews with 260 large and small employers confirmed the impact of the FEA was "overwhelmingly negative". More employers were familiar with the MacBride campaign than the FEA. Of the 15% who indicated the FEA had some influence on their practices, they added this was only temporary and related to actual investigations or complaints. Most (91%) were happy to let things "find their own level", with many considering discrimination in employment to be a justifiable practice.⁴⁵ SACHR called on the government to urgently tackle these "substantial inequalities". It recommended specific goals be established to bring about a:

"substantial reduction in the differential rate of employment between Catholics and Protestants ... An interim target to aim for would be the reduction in differential

⁴⁴ PSI. Part 1, Vol., *Employment and Unemployment*, Table, 2.13, p.46, 1987; *SACHR Report*, p.24 –26.

⁴⁵ PSI. Part 2, *The Workplace*, Chapter 2, pp.18-40, October 1987.

between the male Catholic unemployment rate and the male Protestant unemployment rate from two and a half times to one and a half times within five years. ... the Commission recommends this as a reasonable target which, on public policy grounds the Government should set itself to achieve".⁴⁶

SACHR's argument rested on the fact that the local economy experienced an annual labour turnover of 100,000 vacancies per year. The opportunities for intervention thereby existed even within a weak economy. They added it "knows of no evidence which demonstrates that this is an impossible goal to achieve". If existing strategies proved ineffective they suggested they should be replaced by others, "including measures which are considered to be inappropriate at present".⁴⁷ "Reverse discrimination" was rejected by SACHR "as unacceptable at this time". The government had already specifically rejected this in favour of the concept of 'fair participation' and 'merit.' SACHR echoed the distant concerns of Cameron by arguing intervention by government was justified as effective anti-discrimination laws were one element in stabilising NI and removing "longstanding feelings of injustice". While accepting this the government's considered opinion was that any attempt to reverse patterns of inequality by wholesale measures could only be at the expense of Protestants and even greater instability.

In opposing reverse discrimination as an affirmative action measure SACHR also opposed positive action or applying the "tie break" principle when considering access to employment. That is where an employer has two candidates of equal merit but one is from a group under-represented in the workforce. They thought the adoption of this "may give rise to considerable resentment".⁴⁸ By the same token MacBride was opposed because "The name has associations which lead some to resent and reject the Principles without consideration of their content" (see below). More usefully SACHR supported making indirect discrimination unlawful; placing the burden of proof on the respondent and ending the privileged anonymity of employers under investigation to "encourage employers to avoid discriminatory practices". They suggested compulsory monitoring of the workforce, and placing independent commissioners in charge of recruitment and selection when public bodies refuse to comply with the law or continue in their public opposition to equality of opportunity. Government was asked to lead by example.⁴⁹

⁴⁶ SACHR Fair Employment Report, p.42.

⁴⁷ Ibid. p.42.

⁴⁸ Ibid., p.73.

⁴⁹ Ibid, p.146.

SACHR recommended the FEA be replaced by a new "powerful, respected and effective fair employment body to indicate a fresh approach". With reference to the manner by which Agency members heard cases SACHR said the "Cloaking of individual decision makers in anonymity fosters irresponsibility, encourages delay and creates difficulties for efficient management". They added "the FEA would seem on occasion to take into account the implications of a particular finding for its relationship with particular organisations in a position to influence the provision of equality of opportunity". The civil service investigation was cited as a specific example of this where there was "serious under-representation of Catholics in the senior grades".⁵⁰

By the extremely conservative standards of NI, SACHR's report was a strong one. The publication of statistics that confirmed Direct Rule and ten years of law enforcement had achieved extremely little was a bold step.⁵¹ In many senses though the reports strengths was illusory. SACHR had only gone full circle. Their unqualified support for voluntary compliance over enforcement belied its own evidence. Many of the proposals and issues aired in the report were faint echoes of arguments which raged in the US during the 1960's and indeed during the production of the 1973 Van Straubenzee Report. A strategy for the late 20th and early 21st Century demanded action and enforcement that reflected the depth of the challenge to be faced. To do this however would have been to risk challenging the North's founding principles, - power, privilege and prejudice.

Further statistical analysis by Smith and Chambers (1991) that applied a logistic regression model to all sets of data accepted as relevant to equal opportunities for male unemployment found a "strong relationship between religion and the chance of being unemployed, after taking account of the other five factors [socio-economic group, number of children in household, age, travel to work area and academic and practical qualifications]. This relationship is statistically significant at a very high level of confidence".⁵² They considered that socio-economic group would also play a significant part in gaining employment for both religions but that large differences remained *within*

⁵⁰ Ibid. p.62.

⁵¹ From the FEA's inception in 1976 to 1988, 694 individual complaints were received, 605 were investigated and 52 findings of unlawful discrimination made.

any socio-economic group. From their analysis they concluded that,

“the predicted rate of unemployment is substantially higher among Catholics than among Protestants, no matter what are the other characteristics of the person under consideration. After allowing for the factors included in the model, there is still a large difference between Protestants and Catholics in the chance of being unemployed. It must be concluded that Protestant and Catholic men have substantially unequal opportunities for employment in Northern Ireland. In fact the logistic regression analysis *understates* the inequality of opportunity to a considerable degree. This is because the form of analysis takes out of the reckoning differences in the chances of unemployment between Protestants and Catholics that are associated with socio-economic group and number of children. Yet these differences are also evidence of inequality of opportunity. The tendency for Catholics to be concentrated to a greater extent than Protestants in the lower socio-economic groups is in part a consequence of past and present discrimination.”⁵³

SACHR commissioned a review of policy aspects of employment equality during 1995/96. The official unemployment rate was 12% with an increase in vacancies produced largely by a range of government training schemes. The rates of vacancies to job opportunities however was 22.6:1 while the experience of almost 30 years of Direct Rule showed only marginal change in differential unemployment rates. Catholics still remained twice as likely to be unemployed and overrepresented in the long-term unemployed.⁵⁴ This is illustrated by Table V derived from Census figures.

Table V. Unemployment Rates for Protestants and Catholics in 1971,1981 and 1991.

Census.	Men			Women.		
	Protestant	Catholic	Ratio of	Protestant	Catholic	Ratio of
	(a)	(b)	(a) to (b)	(c)	(d)	(c) to (d)
1971	6.5%	17.3%	2.6	3.6%	7.0%	1.9
1981	12.4%	30.2%	2.4	9.6%	17.1%	1.8

⁵² Smith, David, J. & Chambers, Gerald., (1991) *Inequality in Northern Ireland*, Clarendon Press, Oxford, p.182, 185.

⁵³ Ibid., pp.186-187.

⁵⁴ SACHR (1997), *Employment Equality in Northern Ireland*, Vol. III, pp.2-4., Gillespie, Norman. “Employment, Unemployment and Equality of Opportunity”, Ch. 1., pp.1-25.

1991	12.7%	28.4%	2.2	8.0%	14.5%	1.8
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Source: SACHR *Employment Equality in NI*, Vol. II, Table 1.2, p.4.

These differential patterns were again shown to be consistent across the region.

New legislation.

On March 2nd 1988, the Secretary of State, Tom King MP confirmed legislative and administrative changes would be made. He asserted, these measures "will be more effective than the MacBride Principles could ever be in ensuring equal treatment for all". A White Paper was issued on 25th May 1988, a Bill on 15th December 1988 and a new Act published in August 1989 becoming law on 1st January 1990. The FEA became the FEC; monitoring of the workforce was made compulsory as was registration with FEC, excluding companies with less than 25 employees, e.g. the majority of LEDU sponsored firms. From 1992 this threshold fell to 10. Indirect discrimination was expressly prohibited; a new Community Relations Commission was introduced under the auspices of the NIO with a brief to foster good relationships between Protestant and Catholics. The responsibility for individual complaints was given to a new Fair Employment Tribunal with power to levy cash penalties. The Act provided the power to enforce criminal penalties on employers who failed to register, submit monitoring returns or supply false and misleading information.⁵⁵ . The oppressive Section 42 security clause was retained and specific goals on actual recruitment were excluded with goals restricted to"applications" to avoid misinterpretations.⁵⁶ Quotas and/or reverse discrimination were rejected. “Outreach” measures which recommended employers end the display of offensive flags and emblems, the visiting Catholic and Protestant schools, ending preferential treatment for certain types of organisations, offering training which could facilitate access by under-represented sections of the community were deemed to be more effective forms of ‘affirmative action’. As the government said in the White paper this was more in keeping with "the whole moral basis of the Government's approach to fair employment".

⁵⁵ *Fair Employment in NI*, Key Details of the Act August 1989, *Code of Practice* December 1989, DED. 1989 Fair Employment (NI) Act HMSO.

⁵⁶ A Section 42 Certificate under the 1976 Act may be issued by a “Minister of the Crown or the head of a Northern Ireland department”, to prevent disclosure of information in response to a complaint or investigation. Part VI, para. 52(2) Fair Employment (NI) Act 1976, p.33.

In the USA legislation was a direct response to the civil rights movement and race riots. Major political upheavals produced equal opportunity provisions that included specific affirmative action programmes such as job quotas, goals and objectives to be met within an established time scale. Training may be targeted on specific groups and government contracts could and have been withheld. Enforcement and compulsion backed up by Federal and state courts with powers to impose heavy fines on an individual or class, basis exist. An equal opportunity culture has been fostered among large institutional investors to the extent that special Investment Responsibility Units funded by institutions to independently monitor and report on companies have been established. These statutory and voluntary measures all rest on a proactive approach where concepts of merit and equality are not at odds with the concept of quotas. The latter is more of a yardstick to assess progress upon which further action may be taken if it is apparent little has been achieved. In this context meaningful goals and objectives can be established. These are only a few features that are considered essential to any full-blooded affirmative action programme in the American sense.

In the North, where there was a war on, the new laws contained no meaningful goals, targets or objectives. SACHR's proposal to reduce proportionately inequities in unemployment patterns from 2.5 to 1.5 times within five years was rejected. The inference must be that the stated objective of giving "more people a stake in society" and promoting greater stability via directly reversing inequalities was not as close to Britain's interests then as claimed or that nothing would be allowed to destabilise a society that happened to be overwhelmingly unionist. Those registered on the FEC's list of employers can only have their Certificate of Co-Operation withdrawn if they are subject to successful criminal proceedings for willfully refusing to return or falsifying their monitoring returns. Compliance in terms of government contracts was restricted to major contractors and excluded local authorities, public owned industries and agencies. It also as noted earlier allowed exceptions for security or financial reasons. As the NIO said earlier, vigorous legislation similar to the US model were rejected as potentially "catastrophic". The legislation was drafted to "gain acceptance by the wider community of the fairness of equal opportunities proposals".⁵⁷ The wider community was primarily Protestant. As previously noted (Chapter 3) the White paper made its case that to set aside merit was:

⁵⁷ Tom King MP, Secretary of State, NIO press statement 1st July, 1988.

“to make appointments or promotions on the basis of favouring one religious group over another would be grossly unfair to the individuals thus excluded. ... it would tend to exacerbate sectarian divisions rather than heal them. The fact that some would see it as being done from a good motive, e.g. to counterbalance historical disadvantage, would make it no less inequitable or unsatisfactory”.⁵⁸

In the debate at the House of Commons on discrimination in employment in NI the Secretary of State, Tom King MP declared the government was going to "get tough", with those who flout the law. King added, “It is important to say that discrimination is not practised exclusively by one community against another. It is not all against Catholics. In some significant areas of employment there is significant evidence of discrimination against Protestants”.⁵⁹ His office failed to share this evidence with the public before he left the North to become Britain's Minister for Defence. Both the DED's report on *Future Strategy Options*, SACHR's *Report on Fair Employment* and the three volumes on *Equality and Inequality in Northern Ireland* had not produced this evidence. This is not to say that Protestants do not experience acts of discrimination or prejudice from Catholics but to make the point that access to employment in the public and private sector was overwhelming controlled by Protestants. This was the evidence of all these reports and the individual case studies assessed in this study.

When the original Working party on discrimination reported in 1973, it quoted a US official defining affirmative action as "anything, you have to do to get results".⁶⁰ The new laws were a direct response to US pressure and the recognition that if the FEA achieved anything it was not results. Outlawing discrimination was nothing new. The Government of Ireland Act 1920 expressly forbade the imposition of "any disability or disadvantage on account of religious belief". This Act was the foundation stone of the Stormont regime. The Downing Street Declaration on 20th August 1969, promised equality of opportunity and effective redress; the Electoral Law Act 1969, promised universal suffrage, and the Parliamentary Commissioner Act 1969, gave the commission the power to investigate complaints of religious and political discrimination. In 1971 it took on the power of monitoring those tendering for government contracts. Last but not least was the ill-fated

⁵⁸ *Fair Employment in Northern Ireland*, p.13, HMSO, May, 1988.

⁵⁹ NIO press statement, and Hansard 1st July 1988.

⁶⁰ Report and Recommendations of the Working Party on Discrimination in the Private sector of Employment, (the *Van Straubenzee Report*) p.14, HMSO, 1973.

Fair Employment Act, 1976. SACHR placed its faith in a "new powerful fair employment body", to make progress in the 1990's. Its then chairman, Seamus O'Hara in his evidence to the Van Straubenzee Working party in 1972, said in a private submission:

"We believe that the history of discrimination in employment in Northern Ireland has been so widespread in its result that it is essential to authorise the Commission to fix variable quotas defining the number or percentage of Catholics and/or Protestants to be employed in various places and in various grades of employment both in the public sector and in the private sector Firms and bodies which fill their particular quota in any year will be given a certificate to this effect and only possession of such a certificate would entitle a firm to obtain full Government grants and allowances and to compete for or to obtain public contracts. Firms and bodies which fail to fill their quotas would lose or suffer reduction for that particular year in grants and allowances (including tax allowances) otherwise payable to them".⁶¹

Legislation and initiatives have not been in short supply. In the US much stronger legislation and wide ranging powers has not brought about equality of opportunity. The inherent structural unequal position of blacks and other minorities remains. Racism is still prevalent. Unemployment for blacks is twice the rate of whites. This pattern is true for all ages, both sexes and regardless of education levels. A contemporaneous national survey by the EEOC demonstrated the stability and structural nature of these inequalities.⁶² The strength of the black lobby and stronger powers of enforcement -which included quotas, employment targets, positive action training and recruitment programmes, timetables, - are sufficient testimony of the limits of what can be achieved by legislation supported by energetic advocates. The strength and existence of pro-active legislation can enable punitive lawsuits to be taken and won. Black farmers successfully proved the agriculture department "did not treat them fairly in the area of lending and programme delivery and the servicing of loans. That's just a fact." This was a statement by the departments civil rights specialist when the department conceded a wrong had been done since 1983 leading to millions of dollars compensation to more than a 1000 farmers.⁶³ On the other hand the riots in Los Angeles following the acquittal of four police officers accused of delivering 56 blows to a prone unarmed Black man, Rodney King, by a non-black jury in the face of

⁶¹ O'Hara Seamus, (in his submission he used the English James so is recorded as J.O'Hara written evidence which was his professional name as a lawyer until he became chair of SACHR).

⁶² EEOC Job Patterns for Minorities and Women in Private Industry 1986, pp.1-620, *US Equal Employment Opportunity Commission*, Washington, D.C., USA, 1988.

⁶³ *The Guardian Report*, 6th January 1999.

a video capturing the assault, indicated the depth of the schisms which remain in the USA

To paraphrase the DED's view however such class actions would be a defeat for the promotion of equality of opportunity and "exacerbate community tensions". The legislation and support for the concept in the North pales by comparison. While the new laws now assist documentation of the extent of inequality, counting inequities is no substitute for ending them. It was during this period of the mid to late 1980's that Britain launched its highest profile counter campaign in the US against those advocating a stronger equal opportunity agenda in NI. The Americans grouped themselves around the MacBride Principles. This struggle would prove the strength of American influence in obliging Britain to take matters seriously. It would force the government to introduce fresh legislation as embodied in the 1989 Act. It also demonstrated that 'moral principles' had not proved enough in themselves to achieve legislative change. The 1989 Act and the many administrative changes including the SACHR and PSI reviews were a direct result of external political pressure and massive internal civil unrest and violence in NI. The primary driver for change was violence and the threat of disinvestment by American companies in response to the Irish-American campaign. The moral objectives were built around political necessity. It is to an assessment of this we now turn.

The MacBride Principles Campaign.

The MacBride Principles Campaign began in 1984. The scale of Britain's response reflected the knowledge that the Sullivan Principles upon which they were based enjoyed widespread domestic political support in the US as a voluntary code for companies investing in South Africa. Sullivan who was a pastor of the ZION Baptist Church in Philadelphia and a director of General Motors had introduced his equal opportunity code in 1976. Apart from demanding equal pay and non-segregation at work they also encouraged employers to provide positive training programmes for significant numbers of blacks and other non-whites. Employers who adopted the principles were also obliged to commit their company to "Improving the quality of employees lives outside the work environment in housing, transportation, schooling, recreation and health facilities".⁶⁴ By 1984, 128 US companies in South Africa were signatories with all work facilities

⁶⁴ Cited in 'Report of Comptroller', New York City, *South Africa Investment Responsibility Unit*, 31st March 1985, pp.2-5. See also *IRRC Annual Reports* and their South Africa Review Service.

desegregated for around 65,000 or 1% of South Africa's labour force. Institutional investors funded a special South Africa Investment Responsibility Unit (SAIRU) which was charged with actively monitoring compliance by these firms. SAIRU awarded positive or negative ratings. The consequence would be the investor seeking compliance with the full Sullivan Principles or withdrawal of investment. This kind of pressure combined with the wider anti-apartheid struggle forced major corporations and American based banks to either liquidate their holdings or end operations altogether. Success on such a scale in NI was a frightening prospect for the NIO.

The MacBride Principles campaign's strength was in its potential. It had the capacity to bring pressure from shareholders on American companies in the US that also had investments in NI. This included Hughes Tool, Ford, Standard Telephone and Cables, American Brands and so on. Fords for example had to endure a high profile Irish American campaign advocating the boycott of its cars for its refusal to support the Principles. This led to a special team from the US coming to NI to conduct their own investigation (see below).⁶⁵ Significant American investments peaked in the late 1970's at around 34 companies. Between 1960-82 the total cumulative US investment amounted to some £750m at prices in the mid-1980's.⁶⁶ The new blood of the late 1970's and early 1980's included high profile disasters such as De Lorean and Lear Fan underpinned by massive public subsidies. Since then US investment has been fairly static with exceptions including the take over of Mackies by the Georgian based company, Lummus in 1989, expansion by the STC in 1990 and Fruit of the Loom's £60m IDB supported investment in 1992 at Derry providing 250 jobs. In addition to this, the late 1980's saw significant US Federal defence contracts being awarded to Shorts. British government grants to investors ranged from £65m to Du Ponts since 1960; £35m to Fisher Body (General Motors) since 1979; De Loreans's £50m shakedown and at the bottom end of the scale, £1m to VF Corporation at Newtownwards.⁶⁷

When the MacBride Principles campaign was launched in November 1984 the number of US investors operational had fallen to 25. However if the measure of ownership utilised by the American Investor Responsibility Research Centre (IRRC), is adopted (ownership

⁶⁵ The Irish Lobby, NewsLetter, February 1990, USA, *Irish National Caucus*.

⁶⁶ BIS Washington to *Comptrollers Office*, New York City, 3rd August 1984.

⁶⁷ NIO press statements on industrial investments and government grants.

of 10% or more of a subsidiary or affiliate), the total was 35.⁶⁸ The 24 wholly owned US companies employed around 10,171 and accounted for 11% of the manufacturing workforce. At the campaigns' peak they supported 21,253 jobs and had invested since 1980 more than £397.5m.⁶⁹ The NIO estimated the companies overall value in excess of \$1.2 billion. American investment clearly had "clout".

The MacBride campaign sought to utilise the muscle of institutional investors who controlled stocks in large US companies. Discrimination was regarded as Britain's Achilles' heel by Irish-American campaigners such as the INC and supporters in the American Congress. A propaganda war of some intensity was fought across the Atlantic during the 1980's. The NIO formed a "N.I. Partnership" to lobby in the US against the "unfair image portrayed by the media". This included unionist politicians, the SDLP, religious leaders, businessmen, Cooper, and Agency Board members. As this caravan of fellow travelers grew Irish-Americans forced the US Justice Department in 1990 to make it compulsory for all anti-MacBride campaigners to register under the Foreign Agents Registration Act. This forced them to register as British agents and disclose any fees and expenses gained for their efforts. When written questions were tabled in Parliament seeking to identify those involved and their costs, John Freeman of the local NIC(ICTU) demanded Kevin McNamara MP withdraw them on the grounds this would be an assassination list.⁷⁰ The questions were accordingly withdrawn.

The MacBride Principles were a list of nine equal opportunity statements and objectives. In summary they sought to increase and promote under-represented groups in the workforce; ban provocative religious and political emblems at the workplace; to develop training programmes that would assist minority group employees acquire skilled employment; the provision of adequate security to protect minority employees; public advertisement of jobs and targeting minority group applicants; the abolition of any special job reservations or restrictions which discriminate against any religious or political group; ensuring lay off or redundancy practices did not favour a given group; establishing procedures which would actively assist the recruitment of minority group applicants and finally the appointment of a senior member of management to oversee true affirmative

⁶⁸ Booth, Helen. E. & Bertsch, A. 'The MacBride Principles and US Companies in NI', *IRRC*, USA, April 1989. See also 'U.S.Companies and Fair Employment Practices in NI', Booth, H.E. *IRRC*,1988.

⁶⁹ *Hansard*, Written Answers, 25 February, 1988, p.318; 21 April,1989.

action programmes were introduced, implemented and achieved within specific timetables.

Named after Sean MacBride, an Irishman with an extraordinary political career, the Principles reflected equal opportunity practices in the US. Sean MacBride, who died in 1988, was the son of Maud Gonne, fought in the 1916 Easter Rebellion, went on to become IRA Chief of Staff, fought against the British during the War of Independence and on the Republican side in the subsequent Civil War. He later became a co-founder of Amnesty International, was awarded the Nobel Peace Prize, Order of Lenin and the American Medal of Justice. MacBride said he modelled his principles on the Sullivan Principles. The similarities of the codes enhanced the campaign's legitimacy and effectiveness in the US. Central to this was the sponsoring of investor's resolutions calling for companies to adopt the MacBride principles. The combined institutional value of the 24 companies remaining in NI in 1985, exceeded \$29bn.⁷¹

Campaigners such as the Irish National Caucus and Comptroller's Office of New York City, argued that investment which sponsored discrimination would be illegal under Title VII of the US Civil Rights Act, 1984. This expressly forbade corporations from "perpetuating the present effect of past discrimination". New York City's pension funds were major shareholders in 13 out of the 24 companies then operating in the North, e.g. General Motors (Fisher Body), American Brands (Gallaghers). On a fact-finding visit in 1985 New York's Comptroller, then Harrison Goldin and Assistant Pat Doherty were guests of the Secretary of State and his Ministers with the chair of the FEA at the Culloden Hotel outside Holywood. Goldin stressed that before US investment could be encouraged US investors had to be satisfied there was no discrimination in US plants.⁷² A comprehensive report by his office concluded there was a need to increase pressure on Britain to work more intensively for an equitable solution to the crises. Goldin's office also decided to support the MacBride Principles Campaign.⁷³

As support developed, 33 Senate members urged the US Secretary of Defence to prevent Shorts "furthering discrimination", by benefiting from \$150m worth of contracts from the

⁷⁰ Kevin McNamara MP's office to author who drafted the questions.

⁷¹ Standard and Poors, *New York Stock Exchange Reports* 1985.

⁷² Pat Doherty Special Assistant to the Comptroller, to author at the time of the visit, January 1985.

⁷³ *Office of the Comptroller*, 'Report on Northern Ireland Investment', Harrison J. Goldin, City of New York, February 4, 1985, USA.

US air force. They demanded rigorous affirmative action programmes.⁷⁴ The AFL-CIO, the American trade union body, endorsed the Principles as consistent with established policy on equal opportunities and their support for the Sullivan principles. They dismissed representations by the Secretary of State, NIC (ICTU), the Irish Taisoeach and FEA as views strikingly similar "to discussions which took place in the US in the late 1950's or early 1960's".⁷⁵ Jesse Jackson declared, "Just as in South Africa, we must do everything in our power to ensure that US companies investing in Ireland do not follow any of the patterns of discrimination in employment practices so common in that country. We must see that no US government contracts are awarded to companies which practice discrimination".⁷⁶ The rapid progress by the campaign produced a major counter propaganda campaign by the British Information Services Office (BIS) in Washington.

The BIS circulated an eleven-page rebuttal to leading newspapers, Congressmen and Senators in an attempt to discredit the reports produced by New York City. Every page quoted the FEA in support of Britain's claim that recruitment in the North "is based on equality of opportunity and selection according to merit". It asserted, "in most investigations the Agency has undertaken, it has found improvement (in the relative position of Catholics) over the last decade". The FEA's Civil Service investigation was referred to at length as evidence of this as was Shorts as an equal opportunity employer. A list of those opposed to the Principles included, the SDLP, the Supreme Knights of the Order of St. Columbanus, FEA members, Garret Fitzgerald and Dick Spring, as former leading southern Irish politicians. The BIO declared the campaign was "unnecessary and counter-productive" and in any case would be illegal as it sought to promote positive action or discrimination. Any "Special recruitment efforts", and training targeted at "underrepresented" groups were dismissed as "discriminatory and unlawful". The BIS asserted everything should be left to the FEA. No further measures were required.⁷⁷ The SDLP's stance was based on their view that while they had no objections to the "Principles as principles", but felt that that they may discourage potential investors from NI with so many other inducements available across Europe.⁷⁸ In this regard the BIO

⁷⁴ Congressman Mario Biaggi, Chairman of Ad-Hoc Congressional Committee for Irish Affairs to US Secretary of Defence Casper Weinberger, reported in *Irish Lobby*, Spring 1984 Issue, INC.

⁷⁵ AFL-CIO *Executive Council Statement*, 19th February 1983, Bal Florida, USA.

⁷⁶ Jesse Jackson press release on Northern Ireland, 1st April 1984.

⁷⁷ *BIS Briefing: Report on Northern Ireland by Comptroller Goldin, New York City Council – A Response*, February 1985, paras. 13,26,28.

⁷⁸ John Hume MP, SDLP Leader, letter to *Irish News*, 20th May 1987.

considered “De Lorean, notwithstanding the outcome, was in fact an inward investment success story”. The line was any investment was worthwhile and to secure this it was best not to give support to issues that may deflect from that.⁷⁹

Cooper shared this view. He earlier gave as the reason for any progress in equality of opportunity as the decline in manufacturing. “In that situation any progress will be very, very slow – if not existent. If companies are not recruiting and are paying off labour then progress will not be made”.⁸⁰ Thus the voice of the Catholic middle class and British government were at one. The question of inequalities could only be resolved by creating greater employment opportunities. To accept this meant that the existing patterns of inequality could only be policed for excesses and not changed. The issue of labour turnover was not considered nor was the issue of principle that to “let matters find their own level” was to accept there was no basis to the moral objectives of the government in this regard. It was also a recognition that to change the fundamental patterns of inequality was impossible without risk of major civil unrest and military conflict with Protestants. As this was not part of the agenda the focus had to be on creating new sources of employment and trying to secure what would later be described in the 1989 Act as the ‘merit principle’ and ‘fair participation’. Cooper reinforced this point in correspondence to Harrison Goldin, Comptroller of New York City. Cooper suggested that the MacBride campaign was unnecessary as any “improvement by existing American companies could make no more than a minimal difference to the employment disadvantage experienced by Catholics”. He added “some American companies have made an enormous contribution towards securing equality for Catholics”. Among those he cited in support of this was Ford. This was a claim not even Ford in the US made given the sectarian record of their local plant and Fords own investigations (see below). Cooper concluded his letter by declaring the campaign was detrimental to the Catholic population and suggested existing FEA practices offered the best hope. “Anything else I fear is more likely to lead to an even greater gap between the positions occupied by the two sections of the community”.⁸¹

This debate reflected similar issues to that on apartheid in South Africa. One body of

⁷⁹ BIS, A.E. Huckle, Executive Director, 3rd August 1984 to Patrick Doherty, Comptrollers Office New York.

⁸⁰ Cooper, R. quoted in ‘Why the North’s Jobs Agency Cannot give a Fair Deal’, *The Sunday Tribune*, Dublin, 19th February 1984.

⁸¹ Cooper, R. Chairman FEA to Harrison Goldin, Comptroller for New York City, 19th February 1985.

opinion, especially the governments' of South Africa and America advocated that more inward investment was more likely to achieve change than the threat of disinvestment. Others such as Bishop Desmond Tutu saw it as a tactic to be used in proportion to the lack of progress in South Africa. The MacBride campaign however was not pursuing disinvestment although it may be considered this was implicit if progress was not made but was the application of appropriate "economic muscle" in the right places to make a difference. In this case it was American companies who had the potential stand outside the local political complexities and act as a beacon for fair employment. The assumption behind Cooper's, the SDLP and the British government's viewpoint was that greater investment would directly and indirectly benefit the whole community in some way and thereby create the opportunity for progress on equality of opportunity. Throughout NI's history this was simply not the experience. Those best positioned to take advantage of new investment did so. They were primarily Protestant for the historical reasons already outlined. To take the argument further would mean that a significant amount of all new investment over a long period would have to be directed to areas where inequalities were greatest i.e. Catholic areas. This was not part of Britain's strategy in legislative or economic terms. Rather a general investment would be of general benefit. The skills and access differentials would thereby be diluted and more Catholics would generally benefit and be accommodated into acceptance of the constitution and status of NI.⁸² Interestingly Reverend Leon Sullivan whose "Principles" had been running for ten years in relation to South Africa reversed his position in 1987. He called for total sanctions and disinvestment because the Principles had failed to end apartheid. The US State Department regretted this as they considered it more important to stay.⁸³

In 1986 the International Fund for Ireland (IFI) was established by the British and Irish governments as a product of the Anglo-Irish Agreement. Heavily sponsored by the US, Canada, New Zealand and the EEC its purpose was to alleviate poverty and promote economic and social developments. It was administered however by the very agents which both 'respectable' Catholics and republicans had long accused of economic gerrymandering, the IDB, LEDU and the DOE. At the time of its first Annual Report in 1987, Sinn Fein and the SDLP, criticised it for political vetting in the awarding of grants

⁸² 'Disinvestment', *A Leadership Publication*, June 1985, South Africa, presents a useful debate from politicians and investors on the South African viewpoint on the international campaign at the time.

⁸³ Associated Press Report, cited in *The Guardian*, 4th June 1987.

and for spending almost four times the amount in Protestant areas as in Catholic areas of Belfast. The Irish Taoiseach, Charles Haughey, accused the Fund Board of allowing NI civil servants to control the Fund's dispensation and seeing it as no more than appendage of the IDB and LEDU.⁸⁴ In one case the SDLP accused the chairman of LEDU, Mervyn Hadden of discrimination. His company, Aircraft Furnishing in Kilkeel, had secured a £5m contract from British Airways. The workforce was increased from 50 to 247 during 1987. Of the last 51 recruits monitored, only 8 were Catholic. South Down is predominantly a Catholic area so the question of access to opportunities was not an issue.⁸⁵ At the same time the DOE were intensifying their attack on community groups by withdrawing grant aid on political grounds. The groups and radical priests involved with them accused the IFI board of reinforcing the "pervasive system of economic inequality and discrimination created by successive Northern Ireland administrations". American campaigners succeeded in placing amendments on the 1990 Foreign Assistance bill which authorised a grant of \$20m over two years to the IFI subject to an audit of its purpose. The comptroller General of the US was required to audit the IFI to determine if the objectives of the funds were being met.

Prior to the MacBride campaign the British government's line in the US had been that discrimination was a minor aberration in the fabric of Northern society. Now they focused on the question of legality. The British Consul General, Frank Kennedy, wrote to Goldin, expressing "pity that your report did not acknowledge the measures taken and prompted by the British Government to protect human rights in N.Ireland". He added the positive recommendations contained inherent in the MacBride Principles would be "illegal, since discrimination in whatever form, is illegal". Kennedy complained that New York had produced a report on Britain's record without consulting the FEA and suggested that criticisms of the FEA indicated a less than "genuine interest in equality of employment".⁸⁶ The British First Secretary in Washington repeated these views verbatim to the AFL-CIO. The British shifted ground to attack those who supported the campaign. He stressed "As always with this sort of thing, it is important to look not only at the words used, but the people and organisations of promoting the initiative". The INC was accused of having "never seemed to us to have the interests of the people of Northern Ireland genuinely at

⁸⁴ Press reports cited in *Irish News*, 11th December 1987; *Irish Times* assessment 23rd August 1988.

⁸⁵ Press Report, *The Guardian* 23rd September 1987.

⁸⁶ Frank Kennedy, British Consulate-General, New York, to Harris Goldin, 27th February, 1985.

heart".⁸⁷

Extra efforts to advertise jobs for Catholics were rejected by the BIS as "implying a lack of opportunity for other applicants or preferential treatment in appointments". The FEA's *Seventh Annual Report* was cited in support of this. There it records the FEA view that "successful candidates must be chosen on their merits without any regard to the balance of the workforce".⁸⁸ With regard to other aspects of the Principles the British claimed they were already consistent with existing law and any external intervention was unnecessary and counterproductive. Peter Archer QC, MP, a former British Attorney General, by comparison referred to the proposals as "moderate" which would in no way contravene the Fair Employment Act.⁸⁹ In addition Article 1, Section 4 of the United Nations Convention on the Elimination of All Forms of Racial Discrimination generally endorse positive action programmes, "taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protections as may be necessary". The Convention requires that "Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists".⁹⁰

The British government signed this Convention on 11th October 1966, and ratified it on 7th March 1969. Given this commitment its stance that positive action is illegal and to be condemned in the North is extreme by comparison. Furthermore the US Securities and Exchange Commission notified New York City that it agreed with the view no violation of British law would occur if US companies adopted the Principles. The New York Federal District Court also ruled in favour of New York against American Brands and confirmed the Principles did not breach the Fair Employment Act.⁹¹

⁸⁷ N.E. Sheinwald, First Secretary, British Embassy Washington, on 1st March 1985 to Tom Donahue, AFL-CIO.

⁸⁸ BIS New York, Howard Beattie to Pat Doherty, Comptroller's Office, New York, 31st January 1985, FEA *Seventh Annual Report*, April 1982 – March 1983 p16, FEA, 8th February 1984.

⁸⁹ Peter Archer Q.C., MP, to Pat Doherty Comptroller's Office New York, 24th October 1985.

⁹⁰ International Convention on the Elimination of All Forms of Racial Discrimination, Article 1, Section 4; Article 2, Section 1C. The British government also supported the United Nations Declaration on 20th November 1963 to Eliminate All forms of Racial Discrimination.

⁹¹ U.S. District Judge Robert Carter, *American Brands v New York City Employees Retirement System* 1986, Governing, March 1988, USA, Witt Elder, 'Updates'.

Support grew across the US as local municipalities and states with large institutional investments enacted legislation to force companies to comply with the Principles when investing in the North. They included, New York, Florida, Michigan, California, Illinois, Maine, Connecticut, New Jersey, Rhode Island with around 25 other states during this period. Although California's state senate became the 13th state to pass the MacBride Principles into law, the Governor exercised a right of veto to stop the Bill on 24th September 1991. In so doing he quoted John Freeman Secretary for the ATGWU who claimed to have been "most aggressive in amending" the existing legislation for the benefit of his Catholic members which he now claimed to be 50%. Along with John Hume of the SDLP, both men were cited by the Governor as examples of men with the interests of Catholics at heart who argued the Principles were redundant and "bad for us".⁹²

The British however found themselves with a liability in the form of the FEA. Apart from the widely cited criticisms over its performance and exposure of too many deals that failed to advance the pursuit of equality the advice given to companies by the FEA proved embarrassing. For example Hyster, Oregon which had a plant in Craigavon responded to Irish American pressure by informing the INC, "you must be aware that under the employment law of Northern Ireland, we cannot and do not keep records on the religious affiliation of our employees."⁹³ Its workforce of 492 in 1986 was 62% (306) Protestant. By 1991 the workforce had fallen to 401 and included 133 Catholics. General Motors Directors in voting against a shareholders motion sponsored by the Sisters of Charity of St. Vincent de Paul in New York, claimed its Belfast subsidiary, Fisher Body adhered to the FEA's guidance and did not record religious affiliation as it:

"would be unlawful to require such information and because management believes requests for such information would be regarded with suspicion and resentment. General Motors cannot endorse such action".⁹⁴

When one of its corporate shareholders, visited the plant at Dundonald in Belfast, on 10th April 1986, the workforce walked out because she was a Catholic nun whose organisation supported the MacBride Campaign.⁹⁵ At a meeting with corporate Church investors and New York City that were sponsoring MacBride resolutions on 5th February 1985 GM's

⁹² Governor's Office, Sacramento, California, 24th September 1991.

⁹³ W.J. Fronk, President Hyster, Portland, Oregon, 10th May, 1985 to Father Sean McManus, Director INC.

⁹⁴ General Motors Corporation, Detroit Michigan to the Sisters of Mercy, 8th March, 1985.

management team including the Belfast plant manager informed the meeting that Cooper, had phoned them "informally" to advise GM that should the MacBride Principles be adopted it would be illegal and he would use his position as chair of the FEA to take action against them".⁹⁶ As a compromise the shareholders agreed to withdraw their resolution when GM agreed to issue a public statement supporting the spirit of MacBride and that in a new contract with its Belfast workforce provocative emblems would be banned. GM had confirmed they allowed workers to decorate the Dundonald plant with loyalist insignia and flags on every 12th July. They confirmed 80% of the then workforce of 836 at Dundonald in East Belfast came from the local Protestant housing estates.

This kind of consistent advocacy against discrimination by US shareholders and the local political crisis may be considered to be the primary motivating factors for the government's review carried out by SACHR and the subsequent strategy and discussion papers. As the presentation of the matter had become serious for major business it had to be taken seriously by government. The BIS in its information briefs in Washington had utilised the example of Fords as a company that had been investigated and endorsed by the FEA as an equal opportunity employer. The example was used to demonstrate the MacBride Principles offered no more than the current 1976 Act could deliver. The impact of these assertions was to focus attention on Fords leading to a boycott of Ford cars in America. New York City held over a million shares in Ford with a stock value in 1985 in excess of \$50m. They began to use *their* economic muscle. Pressure from Irish-American supporters of MacBride and Ford shareholders forced the company to send over an American team led by Ford Vice President of Employee and External Affairs, to carry out a full appraisal of the workforce. While noting Cooper's threat may put "companies at risk of legal action", which mitigated against a proactive approach to equal opportunities, Ford, US, stated:

"The issues in Northern Ireland far transcend the responsibility of any one employer or even all employers acting in concert. Industry cannot be the primary instrument of political change in any society. International companies like Ford can, however, exercise influence through employment policies and practices and make a contribution to the communities in which they operate in a way that overcomes some of the

⁹⁵ Press coverage *Irish News*, 11th April 1986 and conversation with author on 10th April 1986.

⁹⁶ Notes of meeting with General Motors, USA, 5, 8th February, 1985.

disadvantages of minority groups".⁹⁷

The report condemned the St. Patrick Day's incident whereby Catholic workers requesting time off were denied while Protestant workers were granted time off to play golf. They also expressed their support for adopting a statement of fair employment for NI that "adopts the substance of the MacBride Principles while avoiding legal and operational obstacles to implementation".⁹⁸ Ford's trade union ACTSS declared a previously unknown "unequivocal support", adding this "means more than simply avoiding discrimination but requires an active commitment to sound personnel policies rather than passive compliance with anti-discrimination legislation". They stressed that, "It is our belief that any display of inactivity or indifference on this matter might be viewed from America as an acceptance of inequality and would not augur well for the future of the plant".

Although supporters of the MacBride campaign asserted that their objective was not disinvestment, it was seen as a logical step by opponents of the Principles should patterns of inequality within companies remain unchanged. The NIO considered this a "very real threat to investment and job opportunity".⁹⁹ Unlike Britain and the US, the position of supremacy by the prevailing power in NI was much more finely balanced and was one that had never been afforded the status of legitimacy found in those countries. Acutely aware of this Britain had to counter the campaign. In NI those who supported the campaign found themselves subjected to threats of dismissal and disciplinary measures. One public example of this was the sacking of Oliver Kearney, from his job as general secretary to the Licensed Vintners Association (LVA) in May 1987. He traveled to California and submitted evidence to the state assembly in support of a resolution to adopt the MacBride Principles on 13th May 1987. This was broadcast by the BBC on 21st May. Speaking 6000 miles from home in his capacity as a member of the Fair Employment Trust,¹⁰⁰ was not considered a defence. The LVA made clear to Kearney and in the press this was the only reason for his summary dismissal. Kearney believed the move was a result of pressure by the NIO on Guinness who in turn pressurised LVA¹⁰¹. Other executive members of the Fair Employment Trust were forced to resign from these positions or face disciplinary

⁹⁷ *Fair Employment Policies and Practices at the Ford Britain Plant in NI*, 15th September 1987.

⁹⁸ ACTSS public statement, September 1987.

⁹⁹ NIO press statement, 28th April 1987. *Irish News*, 29th April 1987 report.

¹⁰⁰ Kearney and others established the Fair Employment Trust as a campaign body on 29th October 1985.

¹⁰¹ Press reports. *Irish News*, 6th June, 9th June, 22nd June. 1987.

action by their employers, the NIHE (see Chapter 5).

Cooper by comparison was not censured for utilising public funds as a government agent to travel the US including California speaking against the MacBride principles. The NIO by comparison said "It was not appropriate for a government representative to testify to the committee".¹⁰² Cooper on the other hand could. Thus the FEA was allowed to reduce its standing to no more than a propaganda vehicle for the NIO. Sean MacBride condemned the SDLP for "simply defending the existing system in Northern Ireland". The Secretary of State, Tom King MP embarked on a mission to counter the campaign in September while Paddy Devlin former SDLP and trade union leader described the Principles as "dangerous because they are divisive – they are evil". The Workers Party joined the NIO caravan by travelling to Washington and dismissing the Principles as "the opening of another front in a vicious terrorist campaign". The monitoring by religion of workforces was opposed as an objectionable form of "labelling" and something which would "maintain a system of religious differences". They endorsed Cooper's view in opposing "labelling of the workforce".¹⁰³ ICTU adopted the paradoxical position of not having a position, they were neither for nor against the Principles in deference to Protestant trade unionists in the North.

The local press coverage was reflected in the British and American press. MacBride had become a vital matter for British foreign policy. Within the space of three years (1985-88) Irish-American pressure had forced Britain to review the experience of enforcement, draft new legislation and place equal opportunities at the centre of its political agenda, both in the US and NI. *Future Strategy Options* was launched in September 1986 by the Secretary of State. This was followed by a new equal opportunity *Guide to Policy and Practice* in October. In April 1987, the NIO produced 40,000 copies for international distribution of a brief entitled, *Fair Treatment for All*. An unabashed piece of propaganda it indicated the strength of the MacBride campaign by including a specific booklet within the package attacking MacBride. The Principles were dismissed as "counterproductive efforts to impose unnecessary employment conditions".¹⁰⁴ The SDLP and FEA were quoted at

¹⁰² NIO 13th May 1987.

¹⁰³ Press Reports. *Irish News*, MacBride, May 1987; Devlin P. *Belfast Telegraph*, 31st August 1987; Workers Party, 15th August 1987, 7th December, *Irish News*; *Belfast Telegraph* 14th August 1987. ICTU, July 1987.

¹⁰⁴ Northern Ireland, *Fair Treatment for All*, Fair Employment in NI and the MacBride Principles, NIO April 1987.

length opposing MacBride and supporting the NIO position. The government now accepted "there was discrimination in the past", but asserted "Real Progress has been made in the past 15 years".¹⁰⁵ Examples cited in support of this included the NI Civil Service, Shorts, the Ambulance Service, the NIHE and the Fire Authority. The booklets stress that while the FEA is in place to afford protection the "best way to end inequality in employment in Northern Ireland is to increase the prospects of jobs by further encouraging investment."¹⁰⁶

As more US states and city districts endorsed the principles, the Orange Order complained of "an orchestrated attempt to discriminate against Orangemen", by acts of "industrial sectarianism".¹⁰⁷ The IRRC reported the campaign was "having a swifter impact in state houses and City Councils than anti-apartheid activism did in the 1970's".¹⁰⁸ By this stage over \$2bn of institutional investors control was committed to the campaign. One example was Cleveland City Council's ordinance that came into effect on 16th March 1992. This prohibited British Petroleum from gaining any new contracts and threatened fuel contracts worth £5m. The City demanded BP comply with the Principles and redress the religious imbalance in its workforce.

A joint committee representing both Houses of the US Congress agreed to sponsor legislation on defence procurement with specific equal opportunity requirements. It was proposed that contractors would have to comply with the much more stringent US requirements before a contract was awarded. The late Congressman Joseph Kennedy, with reference to Shorts, stated the company would thereby lose its contracts if a specific undertaking to "support equal opportunities for Catholics", were not given. He added:

"I think this action by the US Congress sends a strong message to the hundreds of thousands of Catholics in Northern Ireland and their supporters around the world that America is ready to use its influence, and the power of its pocket book, to try to correct the wrongs that existed for too long in Northern Ireland".¹⁰⁹

Kennedy further claimed that, Shorts had agreed to channel \$5m of a \$60m USAF contract to Catholic sub-contractors and agree specific recruitment goals. Targets of 17.5% for

¹⁰⁵ Ibid. Introduction p.2.

¹⁰⁶ Ibid. *Fair Employment and the MacBride Principles*.

¹⁰⁷ Press report *Belfast Telegraph* 10th July 1987.

¹⁰⁸ *Investor Responsibility Research Center*, News, 1987. Washington D.C.

¹⁰⁹ *IRRC*, 'Investors News for Investors', Vol. XV, No.10, November 1988, pp.216-217..

Catholic recruits in 1988, 25% in 1989, and 33% in 1990 were agreed between Shorts and the American Under Secretary of the Army, Michael P.W. Stone. The British Under Secretary for State, replied claiming Shorts commitment was limited to using its best endeavours only to "ensure full equality of opportunity is adhered to".¹¹⁰ However this attempt to gloss over the agreement was exposed by Stone's *Memorandum For the Record* drafted on the 11th June 1988. This confirmed Stone had a 45 minute meeting with Shorts managing director, Roy McNulty to discuss, "opportunities that would be provided to Catholics in Northern Ireland as a result of the impending legislation to authorise Army procurement of Sherpa aircraft". McNulty confirmed Shorts "efforts" would include the following two significant actions:

"1. The company will design and implement what in the United States would be termed a 'set aside'. The set-aside would stipulate a volume of subcontract work available for employers having predominantly Catholic employees'. While no specific amount of work can be set aside until the precise amount of the contract is known, a figure of \$5m of set-aside was discussed. It was understood between us that the set-aside contracts would be related directly to Sherpa work or could also be satisfied by subcontracting other corporate work of an equivalent dollar magnitude.

2. Short Bros. presently has a total of approximately 1,000 workers. Turnover rate is 5% per year, meaning that the company hires about 350 new employees per year. As a base line for 1988 the company expects to achieve a rate of 17.5% for Catholic new hires in relation to total new hires. In 1989 the goals will be to achieve a rate of 25% and in 1990 the goal will be to achieve a rate of 33%."¹¹¹

While Short's undertaking may be considered a cynical exercise to achieve a contract it remains a significant demonstration that even the most sectarian employer may be forced to respond to economic pressure. Any failure to achieve the goals agreed carried the real danger of jeopardising future contracts. Secondly, although the FEA and NIO were fully aware of this agreement no dire warnings or public denouncements were made. Conversely no proclamations of a major breakthrough in affirmative action was made by the FEA either. As silence enveloped the proceedings no educational process or discourse apart from denial could take place.

The success of the MacBride campaign lay in its appeal to investors who wished to ensure

¹¹⁰ *Hansard*, 1st July, 1988, pp.644, 698.

¹¹¹ Michael P.W. Stone, Under Secretary of the US Army, 'Memorandum for the Record' 11th June, 1988.

the large sums they controlled were placed in ethical, moral or increasingly ecologically sound companies. The onus was therefore on the company to demonstrate its practices and purpose was not at odds with the investor's principles. There was little room for a halfway house. Therein lay the danger for sectarian employers. The strength of investors motivated by some sense of morality meant that to maintain their validity their code must not be breached. Such investors, whether it be in opposition to apartheid, sectarianism, or the killing of dolphins represented a new and powerful force beyond the control of less principled governments. Disinvestment and the potential trauma associated with it was a new phenomena for protestant workforces and their ideologues to confront. In such situations Britain has sometimes found it necessary to offer a 'sacrificial lamb'.

Sherard Cowper-Coles was the First Secretary for the British Embassy in Washington, D.C. For a diplomat he could be surprisingly frank. One such occasion was the proceedings on fair employment in the North before the Boston, Massachusetts PRIM Board that is composed of institutional investors and state representatives. His purpose was to counter representations by MacBride supporters. In his evidence he described Protestants as having a lot in common "with the Afrikaners in South Africa, or the Zionists in the kibbutzes in Israel they have embarrassed successive British governments by proclaiming their loyalty to the Crown and to the Union". Britain's involvement with Ireland was summarised as:

"starting with Henry III, (Britain) has committed many crimes and mistakes in Ireland. The biggest and worst mistake of the Westminster Parliament was to let Northern Ireland govern itself between 1922 and 1972. That was a very, very bad mistake. There was majority rule in Northern Ireland but.. the tyranny of the majority, or of majorities, often produces very unfair government.

And what happened in that period was that the Protestant majority successively rigged the political system to ensure Protestant dominance. They did it by gerrymandering political districts,... twisting the balance of the Northern Ireland economy. They did it in housing. They did it in virtually every area of public life, and perhaps private life, so that the largest slice of the cake went to the Protestant majority".¹¹²

He described Britain's continued involvement as "an enlightened, benevolent dictatorship", trying to persuade people to "behave like grown-ups", especially Protestants, "people

whom you and I would probably find it rather difficult to relate to".

In response to questions on the lack of any concrete progress over the years, Cowper-Coles informed the hearing, "I can assure you that privately we have said to the Fair Employment Commission that nothing would be more helpful to us over here than to have a few early sacrificial lambs. And I'm sure they will move vigorously".¹¹³ When this became public Cooper claimed "I haven't seen him (Cowper-Coles) for a long time. Obviously we make our own decisions".¹¹⁴ In response to Cowper-Coles evidence, Pat Doherty from New York's Comptrollers Office, stressed "We are only going to see strong enforcement measures taken by the government - given the very serious countervailing pressures that exist on the ground not to take strong measures - as long as the US investment community demonstrates an interest in this issue".¹¹⁵

As Cowper-Coles expressed Britain's resentment at the campaign and his delight that "we have actually been able to block very large numbers of MacBride Bills", further evidence produced by American research indicated the investment community would be obliged to maintain its interest. Ford in particular was cited as an issue that was not going to go away although "Ford hoped that it would".¹¹⁶ In summary Cowper-Coles accused MacBride campaigners as "evil people with evil ends", whose activities were "desperately depressing" for people like John Hume "who is a saint", when he goes round supporting Britain and "has MacBride thrown in his face at every turn".¹¹⁷ At the end of 1991, the Secretary of State was still referring to advocates of the MacBride Principles as people intent on attacking the interests of working people.¹¹⁸

Conclusions.

While the 1989 Act marked an improvement on the 1976 Act, the government's data demonstrated how little had been achieved and the enormity of the challenge. The

¹¹² 11th October, 1990, Transcript, *IRRC*, Social Issues Service, USA.

¹¹³ Ibid.

¹¹⁴ *Irish News*, 28th November, 1990.

¹¹⁵ *IRRC* Social Issues Service, October 1990.

¹¹⁶ 'Religion and Fair Employment in Northern Ireland: Case Studies of Six American Companies', *IRRC*, January 1990, Bertsch, K.A. & Voorhes, M. The six companies were Fords, AVX Corp., American Brands, Digital Equipment Corp., Nynex Corp., and VF Corporation.

¹¹⁷ *IRRC*, 11th October, 1990, USA.

¹¹⁸ NIO 4th September 1991.

integrity of structural inequality had not been undermined and the credibility of achieving individual redress was severely damaged. It was now clear however that anti-discrimination measures and outcomes would be subjected to external scrutiny and a growing level of internal expertise and interest had been generated by the MacBride campaign. Policy makers had expressed much energy in the production of analysis and proposals. This in itself was positive as by showing the extent of the inequalities created an official body of material now existed in the public domain around which an informed educational process could take place. This information could thereby inform strategic and policy developments by government. The material however effective as a monitoring aid was not to be used by government as a justification for strategic use of its economic muscle in the direct linking of investment to location and recruitment of Catholics. Quotas or reverse discrimination in individual concerns were not to be introduced to correct the position of the 'underepresented'. Fair participation was to be achieved by having a range of more effective procedures for seeking redress. The government concluded that to try and pass the burden of inequality from one community to another was to risk a political catastrophe. The source of this disaster would be the reaction of the Protestant majority. This political conclusion may be considered self evidently right then and in 1972.

If this view is accepted however it confirms that the limitations of any legislation within the context of the powerful religious and political relationships in NI are predetermined by the nature of that society. This may be obvious. The governments' public agenda is to give all a stake in society and overcome the destructive influence of perceived discriminatory nature of the institutions of the state and private employers. The state has produced enough material indicating that it regards individual acts of discrimination unacceptable. It believes "Fair employment is more likely to be achieved in practice if it is pursued in ways which tend to unite the community rather than divide it along sectarian lines".¹¹⁹ NI's employment market reflects the weight of these divisions and the contemporary failure to change sectarian patterns of inequality. Employers and their workforces have shown throughout this period that maintaining a position of privileged access to and actual employment was their priority. This position was complemented by their militant activities on the shop floor and in public demonstrations resisting the Anglo-Irish Agreement or external pressure from abroad.

¹¹⁹ Fair Employment in NI, *White Paper*, May 1988, p.12

Thus in trying to develop equality measures that will secure an accommodation with Catholics and nationalists the British governments' terms of reference have been fixed by the very nature of NI. This has produced an insular response that must always falter or be renegotiated with the forces of unionism. The premise for unionists is that NI is "their country". The starting premise for Catholics is that "it could be theirs also" but not as a unionist bastion. The labour market and access to it is thereby regarded by both groups as one possessed by Protestants. Some such as Compton have argued this is wholly correct as there are fixed proportions for Catholics and Protestants. The exacerbation of this delicate balance by being overly fertile and not emigrating in appropriate numbers, Compton argued, would disturb the balance. The intervention by Irish American interests reinforced the unionist view that the balance is increasingly under threat by external powers. The task of the government has been to square this particular unionist circle. Its problem was the degree of inequality that showed Catholic males were still two and a half times more likely to be unemployed as in 1971. There had been the exposure of the limitations and practices of the Fair Employment Act and Agency during the most violent decade in NI's brief history. There remained no consensus as to the future nature of NI and its place inside or outside the UK.

The British governments' response has been to focus on the individual's perception of achieving "fair treatment for all". By concentrating on this it is hoped that those previously disaffected will experience at the point of entry to the labour market fair treatment in the knowledge that if they don't they will have access to a complaints procedure with the capacity to provide individual redress at some stage. What this ignores however is that the integrity of the process while being of importance to the individual cannot of itself change the market place. It is likely that the market will have the capacity to facilitate entry by a range of professionals and individuals in particular areas such as public administration but it cannot change its *raison d'être* by permitting the wholesale entry of those previously denied access. For this, to adopt the phrase of Tom King MP, for NI would be "to transfer hardship from one section of the community to another". Or as another British official commented much earlier:

"The accusation against the Government of Northern Ireland of religious discrimination is somewhat difficult to deal with. In one sense it is of

course obvious that Northern Ireland is and must be a 'Protestant State', otherwise it would not have come into being and would certainly not continue to exist".¹²⁰

¹²⁰ Malcolm McDonald's Office, Secretary of State for Dominions, 1938, PRO, File XII/123, London.

Chapter 9. What's On Offer -A Framework for Peace?

Introduction.

Significant developments after the introduction of the 1989 Act are commented on to offer some insight into the ongoing impact on local market behaviours during the 1990's of the equality agenda, data from the 1991 census and further government partnership initiatives. The merit principle is examined with reference to fresh research carried out by SACHR in 1997 into developments on employment equality. This leads into the final chapter that summarises the conclusions of this work.

Partnership for Equality.

The Policy Studies Unit carried out a further review of good employment practices for SACHR in 1996. Their survey of employers demonstrated two-thirds of employers in NI were unaware of the voluntary *Guide to Manpower Policy and Practice*. Less than one in ten had any written statements on equality for employees and more than 85% reported their personnel recruitment and training policies and practices had remained largely unchanged since 1976. This position was the same as in 1987 when the last workplace survey had been conducted. The various Acts had not impacted on the behaviour of employers to any significant degree.¹ Aggrieved individuals experienced a high drop out rate in pursuing complaints. The reasons they gave were inadequate support from the FEC, an inordinate length of time to conduct an investigation, 3 to 4 years, a lack of transparency by the FEC with a "major weakness in the fair employment machinery" a constant factor.² The PSI survey was carried out in January 1996, i.e. after the first IRA cease-fire and was directed at those who had actually made complaints. The respondents were 59% Catholic and 33% Protestant. 1744 questionnaires were sent out, the usable return rate was 702 or 41%. An earlier Social Attitudes Survey³ cited by the PSI team had found that over the previous ten years, 8% of the population claimed to have suffered personal discrimination at work due to their religion. Miller considered this would equate

¹ Yarrow, Stella. & Steele, Jane. 'Religion and Political Discrimination in the Workplace, Seeking Justice in NI', *PSI*, No.836, 1997; *FEC Annual Review 1994-95*, p.29.

² Ibid. Chapter.4, p.49. Chapter 7, p.xv.

³ Miller, R. Queen's University Belfast, 1994.

to 80,000 people.⁴ The number of complaints registered annually with the FEC by comparison averaged 148.⁵

The impact of the equality agenda remains limited. The strategy of fair participation and the emphasis on the merit principle had not made inroads into the inherent structural inequalities. The unchanging circumstance that Catholics are disproportionately represented among the unemployed was again confirmed by unemployment data from the 1991 census and interim official research confirmed this remained approximately 2.5 times to almost two times for Catholic males and females respectively. The 1987 SACHR report had called for government to reduce this differential within five years from two and a half times to one and a half times. This goal was rejected. SACHR'S 1997 report considered that Catholic representation was increasing in the expanding activities of administration, management, professional and sales. However the overall ratio of unemployed claimants to vacancies was 22.6:1. This compares to an UK average of 9.6.⁶ Catholics with qualifications at every level remained twice as likely to be unemployed as Protestants. Research by Tomlinson and Sheehan reported in the same SACHR volume, into the long term unemployed in West Belfast found they had a higher than average educational attainment in this category. Once unemployed Catholic males were much more likely to be unemployed for five years or more. 71 per cent of Catholics surveyed stated they would not work in security-related occupations as compared to 21% of Protestants in the survey. Short-term work programmes – ACE now called CWP – provided 29,500 jobs.⁷ In 1994 government ministers publicly linked increased provision and access to such employment with corresponding reductions in security expenditure. Those who wished to provide such schemes had to be security vetted as part of the strategy to undermine republican community groups by denying or withdrawing funds.

Tomlinson in groundbreaking research demonstrated the degree of economic subvention without which the NI economy would simply collapse.⁸ Since 1990 this has averaged £3.5 billion or one half of NI's total expenditure programme. Around 62% of this was spent on

⁴ Miller, R. 1996, pp. 59-60, op.cit. Ibid. pp. 9-10 PSI, 'Public Opinion on Fair Employment' SACHR 1997, Vol.III.,pp.51-85.

⁵ Authors analysis of reported figures in FEC Annual Reports.

⁶ PPRU, 1995, op.cit Gillespie, N. 'Employment, Unemployment, and Equality of Opportunity', Chapter One. pp.1-5, Vol .II, SACHR, 1997.

⁷ Tomlinson, M. & Sheehan, M. *SACHR* 1997, Vol.II, Chapter 3,pp.53-54,

health, education and welfare. Another £1 billion was spent on prisons, security and courts. Tomlinson estimated that since 1969 maintaining a low-level war economy has cost Britain at least £23.5 billion. The police force required to manage a peaceful state of affairs was estimated to be 23% of its current size. This would be approximately 3,750 employees including civilian staff. The impact of such a reduction on the consumer industry and employment opportunities for Protestants would be dramatic. It is likely that should the peace process continue Britain would seek to manage this over several decades rather than a short sharp approach.⁹ It is also likely that the degree of subvention will be challenged as the process of devolution develops by other regions of the UK. In 1991 the Government introduced the Targeting Social Need initiative. The stated policy objective was to:

“eradicate the significant inequalities which persist in the social and economic conditions experienced by Protestants and Catholics. By identifying where the highest levels of disadvantage and deprivation exist, by analysing the precise extent to which their whole range of policies has a differential impact on each side of the community and by targeting the programmes and resources much more sharply on those areas suffering the highest levels of social and economic disadvantage, the Government are genuinely and constantly seeking to remove differentials and rectify injustices”.¹⁰

TSN stemmed from an internal analysis in the NI civil service that “on all major social and economic indicators, Catholics are worse off than Protestants”.¹¹ Policy Appraisal and Fair Treatment (PAFT) followed this in 1994. This required government departments and ‘Next Step’ agencies to proactively seek to secure the elimination of discrimination by promoting fair treatment in implementing and developing policy. However an analysis by Quirk and McLaughlin on behalf of SACHR concluded there was:

“little evidence that TSN, as it was initially framed politically, has had a substantial influence on the spending and decision-making departments. This is not surprising, given the reluctance of most departments to monitor or research expenditure programmes and policies in terms of their impacts on the Catholic and Protestant communities in Northern Ireland”.¹²

This stands in marked contrast to former secretary of state, Peter Brooke, that TSN was to

⁸ Tomlinson, M. *International Policy Review*, Vol. 5, No.1, Spring 1995, pp.69-74, and, ‘25 Years On: the Costs of War and the Dividends of Peace’, *West Belfast Economic Forum*, 8th August 1984.

⁹ *The Patten Report* on policing and reforming the RUC suggests a figure of around 7,500.

¹⁰ Lord Belstead, House of Lords, 13th February 1992.

¹¹ Internal memorandum cited in Chapter 7, p.156, *SACHR* Vol.II, Quirk P, & McLaughlin E.

be the “third public expenditure priority”.¹³ The authors noted their research received the underwhelming support or passive opposition of the civil service despite being carried out for SACHR. The indications remain that a cultural leap has not been as yet made by those who are after all part of a wider cultural context that sees loyalty to the union and their Protestant birthright as more deserving of support. Quirk and McLaughlin concluded that “TSN has not been a public expenditure priority – rather it is a principle awaiting definition, operationalisation and implementation”.¹⁴ In short it largely remains the property of public relations and packaging.

NI local regional economy has endured some of the highest and sustained unemployment rates in the UK. The various regional employment promotion initiatives have essentially worked hard to stand still. The greatest source of employment was the rapidly expanded public sector under Direct Rule. In the 1990’s the DED echoed earlier comments by Isles and Cuthbert 40 years earlier in their assessment of the local economy’s deficiencies. The lack of an enterprise tradition, low levels of managerial and training competence, peripheral location, declining manufacturing sector and too great a dependency on the public sector for direct employment and a host of grants. In short the economy was and remained wholly dependant on government subvention to maintain current standards of living which unionists now stress is a primary reason for dismissing unity with Ireland. Within the context of a public sector driven economy it appears the Catholic middle class has been able to grow. Vani K. Borooah (SACHR) considered that while the impact of the “troubles” has been small in comparison to the lack of competitiveness the growth of the public sector has enabled the development of dual-earner households to skew economic rewards to the middle class.¹⁵ This in itself may give rise to a shift in aspirations between the Catholic working and middle class whereby the SDLP and Sinn Fein may find the class nature of their respective bases accentuated. Unity may become a very long term and soft aspiration for Catholics while in poorer rural regions or working class areas bereft of employment opportunities see it as a more tangible and meaningful aspiration. How this tension plays itself out remains to be seen.

Few consider the local economy can sustain itself without the British subvention. Many

¹² Ibid., see pp.181-83.

¹³ CCRU *Equality Review Conference*, 1991.

¹⁴ SACHR Vol.II, p.153-185, p.183.

consider a sustained peace process can lead to increased job opportunities.¹⁶ The challenge is to move from an economy where significant numbers are engaged in the pay of policing and controlling a significant minority to an economy where short-term policies of economic and political containment are replaced by aspirations to provide for the betterment of all. To achieve this the historical weight and contemporary impact of structural economic discrimination must be challenged and overcome.¹⁷ It may be that the single European market inexorably drives the two economies of Ireland into a common strategic purpose before any political settlement out of necessity and pursuit of greater rewards. Or it may be that the political framework remains an iron grip that sustains the status quo.

The Peace Agreement and Merit.

The terms of this status quo however now formally include the dimension of the Irish government, a new local elected Assembly and an IRA cease-fire under the April 1998 Belfast Agreement.¹⁸ The fresh initiatives proposed for the economy and fair employment in the Peace Agreement were outlined in the White Paper, *Partnership for Equality*.¹⁹ The latter referred to a range of measures aimed at combating unemployment and progressively eliminating the differential in unemployment rates between the two communities by targeting “groups and areas objectively defined as being in greatest need, irrespective of community background”.²⁰ Former Secretary of State, Mo Mowlam, refers in her introduction to the general blight of unemployment and its correlation with disadvantage. She states the government is:

“opposed to discrimination between unemployed people on the basis of their community background we propose to put in place a new statutory framework requiring the public sector to promote equality of opportunity. This legislation would require public sector bodies in Northern Ireland to ensure that, wherever possible, public policies and functions are

¹⁵ Ibid. Vani K Borooah . *SACHR* Vol.II, pp.273-91, p.278-80.

¹⁶ Munck, R., Hamilton, D. ‘Politics the Economy and Peace in NI’, Chapter 7, in *Rethinking Northern Ireland*, Miller, D. ed. Longman 1998. NIEC Through *Peace to Prosperity*, Paper 3, April 1995 and *Economic Implications of Peace and Political Stability for NI*, Paper 4, June 1995.

¹⁷ See Smith, D.J., & Chambers, G. *Inequality in NI*, Clarendon Press, Oxford Univ. Press 1991.

¹⁸ *The Belfast Agreement: An Agreement Reached at the Multi-Party Talks on Northern Ireland*, April 1998, Cm 3883, HMSO.

¹⁹ *Partnership for Equality*, The Government’s proposals for future legislation and policies on Employment Equality in Northern Ireland, March 1998, Cm 3890 HMSO.

²⁰ Ibid. *Targeting Social Need.*, p.28.

carried out with due regard to the need to promote equality of opportunity in those areas covered by the Policy Appraisal and Fair Treatment (PAFT) guidelines.”²¹

A new Equality Commission to discharge the functions of the FEC, EOC, Commission for Racial Equality and Disability Council was proposed. These in turn were linked to the wider British agenda of devolution and the introduction of a Human Rights Act. The Secretary of State declared the government’s objective was to promote a “fair society, whether government is by Direct Rule, as now, or by agreed new arrangements. Our proposals are aimed at that, and that alone”.²² Adam Ingram stated in the parliamentary debates on a new Fair Employment and Treatment Order (1998), the objective of the legislation was also a moral one. In this assertion he unknowingly repeated the sentiments of Labour MP, Stan Orme (Minister of State for NI) in 1976 on the second reading of the Fair Employment Bill when he declared the principal objective of the Bill, was, “essentially a moral one ... the activities of the FEA would be primarily educational in nature”.²³ The underlying principles were the same as the 1980’s debate, merit and fair participation.

“There is no question of reverse discrimination, quotas or tampering with the merit principle”; equality of opportunity “must be planned for worked for, like other business objectives.”²⁴

The market has primacy over the moral principle. The Act contained no challenge to the peculiar character of the NI market. The Draft Order defined “affirmative action”, as action “designed to secure fair participation in employment by members of the Protestant, or members of the Roman Catholic community”, by adopting practices to encourage such participation and to modify or have practices abandoned that restrict or discourage such participation”.²⁵ The terms and concepts of redistribution or reversal of employment opportunities were absent. While recognising the 1989 Act improved on the 1976 Act, it was still fundamentally flawed. Concepts such as affirmative action, fair participation, merit and equality of opportunity within the Act were seen as vague and confusing. Several authors noted that the government had rejected any concept of positive action or

²¹ Ibid.,p.4-5.

²² Ibid., p5.

²³ *Official Report*, House of Commons, 16th Feb., 1976, Vol.905,cols.989-1070.

²⁴ *Parliamentary Debates, Official Report*, 10 December 1998.

reverse discrimination or the use of legislation to expressly correct serious imbalances in a workforce. In his contribution McCrudden challenged the concepts of 'merit' and the 'merit principle'. He saw them as "competing conceptions of the concept of merit which usually point in different, and sometimes incompatible, public policy directions".²⁶ McCrudden argued these matters cannot be divorced from issues of scarce resources, the role of the state, negative and positive conceptions of merit; the relationships between merit and virtue and merit and equality of opportunity.

In short, the social and political context of 'merit' will inform the value and attributes associated with the concept and its application. A situation of scarcity, i.e. few permanent employment opportunities in a structured environment with high unemployment differentials, as in NI, could impose severe constraints on the potential opportunities associated with merit. The practical implementation of the concept – merit – could simply be a mechanism to sustain inequality by failing to challenge or reverse the historical and contemporary impact of discrimination. The advocates of the concept realise in the context of NI that 'merits' worth is its value as an aspirational objective. The pursuit of the future, as of now – a new Act, a new peace agreement, a new political structure etc., - merits worth is in its potential for fresh recruits within a competitive market. This ignores the fact however that markets are by definition, competitive and highly unequal starting and finishing points. The economy of NI is and always has been a dependant economy wholly reliant on British direct and indirect subventions. Many have recorded its inability to sustain itself and to spend above what it generates. The state has not been a passive bystander allowing merit to take its course. It has directly intervened in the development of the North's infrastructure, location of business and development of public services. It did not intervene to ensure merit or fair participation were more than conceptual frameworks that sought to mitigate access to the market place as opposed to a force to change it. Their permissible force or context was and remains a society were more than twenty years of fair employment legislation have made no material change to the fundamental differentials in employment opportunities between Catholic and Protestant. Equality legislation has existed since partition in 1921. The result has not been a product

²⁵ The Fair Employment and Treatment (NI) Order 1998, HMSO. The 1997 *SACHR* reports explored these concepts in some detail. *Employment Equality in Northern Ireland*, Vols. I-III, {series ed.}, McLaughlin, E. 1997.

²⁶ *SACHR*, Vol. I, Chapter Two, McCrudden, C. "The Merit Principle", and Fair Employment in Northern Ireland, p.27, pp.27-46.

of merit but a history of covert and overt inequality that have exacerbated and reflected fundamental schisms in this society.²⁷

Conclusion.

As McCrudden argues, to accept merit as a given principle, out of context in legislation, is to assume the state and other employers will always act in a fair manner. *Ipso facto* this has patently not been the case. Phrases such as “fair participation”, are meaningless and become no more than an opportunity to avoid the harder edge of quotas and overt policies to reverse inequalities at a strategic level. There is no debate or initiative by government on the concept of redistribution and its moral grounds. In this context merit then, sees all things as equal, and the state is committed to intervene to ensure this is indeed the case- at least at the point of entry to the employment market. The concept of merit is not taken a stage further to commit the state to intervene on behalf of those who have suffered a strategic and historical absence of merit, to directly benefit from a positive action programme to restore “merit” to a state of equilibrium. This equal market has of course never existed but in conceptual and legal terms any endeavour to exercise a redistributive process is absent. Merit then becomes a “background constraint”²⁸ denying the possibility of affirmative action. The conceptual framework clouds the debate by linking the legislation to a philosophical view of a market economy that has never existed. The state and its agents can thereby promote propaganda rather than results and shunt any fundamental structural changes to the inherently sectarian nature of the local market into the sidings. This is containment.

Within these parameters the challenge to the British State is to secure at the very least the passive acquiescence of a significant Catholic minority in NI that the British government and the executive institutions it will introduce to restore devolved government will play according to the rules. The closest parallel is more South Africa than America or the rest of Britain. For as with the black majority in South Africa the Catholic minority in NI has the capacity to destroy any accommodation that is not accepted as legitimate. The inequalities that Western liberal thought regards as essential to the social cohesion of society and legitimate rewards of enterprise are to be seen to be derived from an

²⁷ See Graham, D. ‘NI: Employment and the Law’, *Irish Studies Review*, Vol.6. No.2 1998.; Tomlinson, M. *IPR* 1995, *NIEC* reports.

²⁸ McCrudden, C. *SACHR* Vol.1., Chapter Two, p.42, (1997).

inheritance and distribution of wealth, power and privilege that is deemed as reasonable and acceptable. It is the management of this process that presents difficulties and sometimes as we have seen leads to violent protest. A debate that focuses on jurisprudence is no more than an intellectual and realpolitik struggle over the art of the possible within a predetermined intellectual outcome which takes as given the confines of western parliamentary democracies and privileges. The historic accommodation that Cameron sought in 1969 is one now fully supported by Irish and British governments. The nature of NI however precludes a fundamental reconciliation along such broad lines because the inequalities in terms of power, privilege and employment outcome have been the core of its very existence. This is the essence and fibre of society in NI.

While the British government's review of legislation within the context of the peace process will lead to a range of further statutory obligations to promote equality of opportunity, it has stated, it "will not differentiate between Protestant and Catholic unemployed in the implementation of its policies". Instead it hopes that its general economic and social policies will have the effect, "over time, of eroding the unemployment differential".²⁹ There are however no economic indicators that point to increased economic opportunities or turnover to drive this objective forward. Rather "over time", simply indicates this will be the problem for future generations. The evidence presented in the American experience does not lend weight to the efficacy of the moral weight of merit as a power for change in itself.

²⁹ *Partnership for Equality*, p48, March 1998, Cm 3890 HMSO.

CHAPTER 10. FEARING EQUALITY.

Conclusions.

This thesis undertook to demonstrate the depth and extent of underlying inequalities in employment produced by the creation of a sectarian state - Stormont. Chapter Two provided the historical context of this development and outlined the administrative and policy measures taken to secure this vision. In chapter three a comparative history, with reference to the American equal opportunity practices was provided. As the American model was drawn on by those commissioned to draft proposals for NI their strength and outcome are highly relevant in terms of demonstrating what was needed in a much larger society with greater opportunities and wealth to achieve progress. Yet despite this much more forceful approach the material benefit to working class blacks has proven to be relatively slight. This offered an incisive lesson for those engaged in promoting a Fair Employment Act that was discounted in critical areas.

The British government declined to adopt affirmative action in a class or individual sense either in legislative terms or by specifying that grant aid or investment should be directly linked to reversing patterns of inequality. It has been argued that this singular failure in a society at war sustained significant patterns of inequality, and at the very least presented no challenge at all to the prevailing Protestant culture in employment. The opportunity to reverse these contemporary and historical inequalities over three decades was avoided. This view has been supported by reference to employment patterns and recruitment practices in significant areas of public and private sector employment. The examples studied included Shorts and Harland & Wolff that have been at the epicentre of loyalist resistance to any challenge to Protestant hegemony. The range and depth of examples given demonstrates that the culture of exclusiveness and sense of right in this purpose is deeply and popularly held.

While chapter five acknowledges the material progress made in terms of the physical environment and social housing the case studies presented indicated both the potential for and actual practices of significant acts of discrimination and a failure to carry out its specific strategic policy mandate with reference to equality. A blinkered or “religiously blind” approach may have been comfortable for NIHE officers and executives but this

simply prevented any capacity to see the impact of resource allocation and strategic direction on the community. The research by Hillyard and the PSI raised fundamental questions as to the absence of any coherent investment and repair strategy that takes direct cognizance of the ability to change tenure by leaving social housing, historical investment decisions, spatial mobility and segregation. The inability of a non-accountable quango to be independent or engage residents in critical decision making areas that were politically driven is illustrated by reference to two international cause celebre's in the housing world, Divis and Unity Flats and the response to military planning.

The assessment of the modern equalities enforcement agency – the FEA - response to this has been shown to be wholly inadequate in chapter seven. A conclusion supported by several independent reviews and finally accepted by the British government. It has been demonstrated that the British government through such agencies and at a wider political level has been content to maintain the status quo and leave major inequalities unchallenged in the public and private sector. The evidence of the unchanging strength of employment patterns and specific case studies presented make this conclusion overwhelming. The comments on the internal struggles within the FEA while exposing a range of failures and shortcomings by the British government and its agencies in the conduct of investigations or their emasculation also serves to demonstrate how closely fought any struggle on this “narrow ground” can and will be. The FEA's lack of vigour in prosecuting the law in favour of adopting a secretive attitude to investigations that put the interests of the employer first has been exemplified. Access to data on inequality as a result was restricted or prevented thereby ensuring that any public debate on equality became ad hoc subject to some revelation or incident. It has been argued this was an abrogation of responsibility motivated by a desire to appease on the whole a unionist status quo. This would not have changed without the intervention of Irish-American pressure in the form of the MacBride Principles and that this campaign directly led to the creation of a new Act and legitimised equality of opportunity in the religious sense entering a broader public arena. The campaign obliged the British government to develop a more sophisticated approach that also accepted the Irish-American interest was legitimate. This became a much broader policy matter with the interventions of former President Clinton and the Irish American lobby. Without the MacBride Principles Campaign the priority given to policy development in equality would have remained low and matters such as compulsory monitoring, certificates of practice for employers and the

development of a broader agenda such as TSN, PAFT are highly unlikely to have occurred. The MacBride Campaign by linking investment to ethics for the first time in NI provided a vital external driver for change and, of equal importance presented to Protestant workers a force beyond theirs or the British government's direct control.

The wider more recent political developments embraced by the Peace Process reinforce the underlying principle of the thesis that legislative enforcement agencies— however efficient- do not offer solutions in themselves. Rather that as part of a wider solution they can reflect the aspirations, ethos and goals of a society. However neither the reorganisation of the enforcement agencies into one body nor the Assembly's Equality Unit have any aspirations that go beyond seeking to contain the pursuit of equality to the exact point of entry to the labour market. This is to be assessed and measured by an evaluation against the concepts of "merit" and "fair participation". As stated at the outset, NI's peculiar labour market already has a built in differential that means access to this market will always weigh heavily in favour of those that created it. Indeed there is no evidence at all of any systematic programme with specific targets to reverse unemployment differentials that are two to two and a half times against Catholics. Such an option as suggested by SACHR in 1987 would require a sea change not simply in the role and purpose of enforcement agencies but in the aspirations, goals and ethos of a whole society. Nor are there any proposals or legislative mechanisms that will oblige sectarian employers to deliberately and radically alter the composition of their workforce. As McKay's¹ seminal work *Northern Protestants* illustrates for Protestants this would indeed be another world. Protestants as a group have no material interest whatsoever in such an agenda. The primary difference is the capacity of several organisations to monitor the difference. One of the questions raised by FEA staff in this work was, "quis custodiat ipos custodes". Its resonance remains a powerful one.

Republicans placed the equality agenda at the centre of their negotiations with the British government. The Belfast Agreement expressly affirmed, "the right to equal opportunity in all social and economic activity, regardless of class, creed, disability, gender or ethnicity, alongside, "the right to freedom from sectarian harassment".² In order to promote these liberties new institutions that include a Human Rights Commission and a unified equal

¹ McKay, Susan. *Northern Protestants, An Unsettled People*, Blackstaff Press Belfast, 2000.

² The Belfast Agreement, p.16, April 1998.

opportunity body under a new statutory framework were proposed.³ The New Labour government has therefore accepted that if any accommodation is to be achieved access to the means of labour must not wilfully be denied; protection against the invasion of others, including the state must be provided; and by these means, access to the means of life and their quiet enjoyment will be secured.

A fundamental fear for unionists however is that a degree of greater egalitarianism in terms of equal access to the employment market could very well be at their expense. It is for this precise reason that Britain will not introduce quotas or impose any redress that would be widely detrimental to Protestants. To do so would oblige too many historical and contemporary wrongs to be corrected thereby fracturing any ability to manage the process which the vague concept of “fair participation”, permits. It also ensures the perception of sustaining a “Protestant Heritage”, is not undermined within unionism as they seek to maintain their dominance. Something explicitly recognised by Peter Mandelson, former Secretary of State, in his statement that the post agreement talks between Sinn Fein and David Trimble’s unionists in November 1999 offered unionists the “opportunity to control their own and NI’s destiny”.⁴ The formal introduction of a foreign power to the equation in the form of Ireland generated more hostility and undiminished suspicion. The fact some unionists and the British prime minister see the Agreement as securing the union while Sinn Fein see it as the thin edge of the wedge only confirms the strength and disparity of competing visions. Possessive Protestantism does not wish to be the author of its own demise. Can the circle be squared?

The challenge for the 21st century will be whether Britain and now Ireland will be allowed to settle for a Peace Agreement as solution that appears strikingly colonial, while the “locals” endeavour to square the unionist circle. Inequalities, conflict and the struggle for domination have been the prevailing characteristics of NI. Those most directly effected have been the respective Catholic and Protestant working classes. From their ranks have also been drawn the primary protagonists, foot soldiers and victims. It is also inevitable that their overt and active support is essential in sustaining any long-term solution. Some elements of the Protestant para-military forces have declared their desire for change but wholly within the context of NI.

³ *Partnership for Equality*, March 1998, HMSO, Cm 3890. The Human Rights Act is now in force.

⁴ *Guardian*, press and media interviews 20th November 1999.

The short-term expediency of British governments in partitioning Ireland ensured the dangerous mix of anti-colonial freedom struggles, nationalism, religion and territorial claims continued to simmer. The potential for any accommodation, at least with the Catholic middle and professional classes, were dashed by the sectarian geo-political economic objectives of the Stormont regime. Britain exacerbated the conflict by enabling Stormont to rule by imposition of draconian powers and a systematic denial of civil liberties enjoyed in other parts of Britain. The artificial imposition of borders derived from a crude religious apportionment created a society that saw itself under siege. The mentality of Protestants to “hold what we maintain”, was intensified by the nationalist rejection of the new state and the claim of unfinished business by the Free State. A running suspicion as to the duplicity of British government and the desire to provide economic and political patronage to ‘one’s own’ completed a heady mix.

Catholics in turn found themselves under internal siege by a state they initially refused to recognise and which they have yet to afford any full legitimacy. Republicans have already declared they regard the latest Assembly as only a staging post in the struggle to finally remove Britain. Stormont was regarded as a state created by force of arms that imprisoned them within its borders as reluctant guests and saw Catholics as uniformly nationalists not to be trusted or allowed any semblance of power or influence. Given frequent public expression by unionists to keep Catholics in their place this approach won few Catholic supporters. Stormont’s colonial perspective supported by an ideology of supremacy, racism and daily prejudice loaned itself to sustaining an authoritarian social order where aggressive, hostile actions by the state and its agents found popular sanction among Protestants. British justice found its own peculiar criminal deviance in the North – trial without jury, internment, sanctioned torture, assassination and terror of its enemies.⁵ Or as Brigadier Kitson’s oft quoted dictum proclaimed, “the law should be used as just another weapon in the government’s arsenal, and in this case it becomes little more than a propaganda cover for the disposal of unwanted members of the public”.⁶

Having applied a wide range of these policies since partition in support of unionism,

⁵ See Hillyard, P. ‘Political and Social Dimensions of Emergency Law in NI’, in *Justice Under Fire*, pp.191-212 and Jennings, Anthony. ed. *Justice Under Fire*, the Abuse of Civil Liberties in Ireland, 1990 Pluto Press.

⁶ Faligot, Roger. *Britain’s Military Strategy in Ireland – The Kitson Experiment*, Zed/Brandon 1983.

Britain now appears to have accepted that greater sophistication is required to achieve an accommodation with nationalists and possibly republicans. The SDLP was a key target. When attempts to divide the SDLP from Sinn Fein under the 1985 Anglo-Irish Agreement failed, the government pursued a joint policy of securing the interests of the professional Catholic classes while keeping Sinn Fein and militant republicanism on board. The result of two IRA cease-fires (August 1994 and 1998) and subsequent loyalist ones have essentially remained intact. Both these initiatives have involved the Irish Government and endeavoured to embrace all local parties including loyalist para-militaries. Previously seen as “simply criminals”⁷ by successive British governments, the ‘men of violence’, and their respective political prisoners became the key to at least the end of violence on the streets, if not a long term political accommodation. In July 2000 the last 86 republican and loyalist prisoners left the Maze or Long Kesh harbouring eight prisoners guarded by 850 prison staff.

As the issue of equality became a central feature of the Good Friday Agreement the British government sought to reinforce the framework for an accommodation within NI. The Agreement may indeed offer opportunities for the Catholic middle class to separate themselves out from their more militant nationalist brethren. The formal creation of the new Assembly or Power Sharing Executive for NI prior to any IRA disarmament with Sinn Fein taking ministerial posts in education and health on 2nd December 1999, was a highly symbolic Act. It is one riven with qualifications that may yet unravel to the detriment of a permanent peace. Having collapsed in April 2000 and resurrected in June 2000, to be suspended and restarted in 2001 over Trimble’s demands for decommissioning by the IRA, this stop-start approach does not inspire confidence in the ability of local political parties to create a common agenda. The proposals for the RUC if implemented will offer a serious political and practical hurdle – will Catholics be persuaded to join in significant numbers, will unionists who regard the RUC as “their police force” accept such a change as inevitable? Do such changes invalidate this aspect of this thesis? While it is too early to evaluate the impact of proposals that remain to be implemented several points can be made that are relevant.

The Assembly will not exercise power over the exchequer, security or foreign relations. It

⁷ James Prior MP Secretary of State, 28th June 1983, NIO Press statement.

therefore does not have the economic power – nor the desire as yet – to intervene directly and ensure public investment in employment makes a fundamental difference to the overwhelming culture and character of employment in NI. The case studies presented show the depth of feeling that have led to violence if what is regarded as militant Protestant's narrow ground is trodden upon on the shop floor. They also show how political expediency and plain incompetence left a trail of lost opportunity and inequality to the detriment of both individuals and broader educational or cultural progress on the merits or lack of in the promotion of equality of opportunity. The need for open engagement on the actual employment practices by critical employers simply foundered on an employers veto. Nationalists with the memory of the tumultuous days of the 1985 Anglo-Irish Agreement alongside the tortuous negotiations in establishing the Assembly have much evidence to argue a political veto is still in place.

New Labour, new politics.

New Labour has expended a reasonable degree of energy in pursuit of a resolution to Britain's longest running internal war since coming to power in 1997. The Good Friday Agreement reflected the multi-party aspirations with the Irish and British governments in partnership to achieve a settlement. The tortuous negotiations over the detail of its implementation have kept the cease-fires in place although SF formally rejected unionist attempts to deny them executive seats on the new Assembly for NI. The IRA have made it plain they do not accept decommissioning is linked to the role of SF and they will not hand over their arsenal in any case. They do however endorse the Good Friday Agreement and their decision to allow inspection of specified bunkers was a step few considered possible. A return on this political investment by republicans is now expected.

The Agreement sought to address constitutional issues, the creation of democratic institutions in NI; joint interlocking governmental councils, policing and justice, prisoners, decommissioning and the provision of rights, safeguards and equality of opportunity. The "Declaration of Support", signed by all the participants expressed their belief, "that the agreement we have negotiated offers a truly historic opportunity for a new beginning". A commitment was given to "partnership, equality and mutual respect", as the basis of relationships alongside a "total and absolute commitment to exclusively democratic and

peaceful means of resolving differences on political issues”.

On the constitution this meant all accepting “the legitimacy of whatever choice is freely exercised by a majority of the people of NI with regard to its status, whether they prefer to continue to support the union with Great Britain or a sovereign united Ireland”. For unionists and Blair this copper fastened the union. Republicans appear to have considered that in the very long term demographic changes will lead to a voluntary vote for union with the rest of Ireland and in the mean time there existed the opportunity to persuade unionists to give their consent. For Britain’s part the position reflects the fact that any political or economic interests can be secured regardless of any border in partnership with Ireland. The changed world position that has left America as the world’s primary superpower also deprived Britain of any military strategic interest in terms of the North’s link in NATO’s radar and monitoring systems. It also reflected the broader devolution developments within the UK with the creation of Scottish and Welsh Assemblies. In short, Ireland was no longer perceived to be in an emotional or rational sense the source of any political threat to the stability of the North or Britain. The possibility of an All Ireland Socialist Republic- in the sense advocated in the 1920’s or 1960’s and 1970’s, with the possibility of a Soviet Union playing some ill defined role has gone.⁸ As an EEC partner, Ireland is also in the same economic market – the threat of it becoming an equivalent to Cuba in the British Isles is no longer a fantasy of even the most demented British chauvinist.

To provide for some form of democratic and accountable institutions – the Agreement proposed a democratically elected Assembly capable of exercising executive and legislative authority. Safeguards would be introduced to ensure the “rights and interests of all sides of the community”, are protected. It is anticipated these safeguards will act to prevent a resurrection of the sectarian Stormont regime. Apart from a new Human Rights Commission and a new Equality institution, the Assembly structure required the allocation of chairs, ministers and committee membership in accordance with party strengths; a bar on infringing on any Bill of Rights or the work of the Human Rights Commission and decision making arrangements to ensure cross-community support was sought by requiring a weighted majority (60%) of members present and voting, including at least

⁸ Reed, David. *Ireland – The Key to The British Revolution*, Larkin Publications, 1984.

40% of each of the nationalist and unionist designations present and voting. (Strand One, the Agreement) Taxation and defence are excluded from the remit. The Assembly election results in July 1998 saw Sinn Fein obtain 18 seats, the SDLP 24, the UUP 28 and the DUP 20. Others made up the rest of the 108 seats. Sinn Fein obtained the highest number of first preference voters. This democratic expression however led to the Agreement's most serious crisis. The result effectively secured SF two ministerial seats to govern the proposed ten departments. Trimble of the UUP, the DUP and the British government blocked this by demanding the IRA decommission before they be allowed to take their seats at the table with Trimble. Sinn Fein formally rejected this ploy (April 1999) and criticised the British for endeavouring to appease the unionists at the expense of the peace process and in breach of the Agreement. SF had made it clear in late 1994 and early 1995 when Britain refused to recognise their electoral mandate that "decommissioning IRA weapons is, at best, a stalling tactic and, at worst, an attempt to create a situation of crisis in the peace process around the issue".⁹ As stated above the Assembly with Sinn Fein present was formally instituted on 2nd December 1999. Is this the key to fundamental reforms, is it enough to alter patterns of inequality within NI? Recent reviews and debate suggests not and reinforce the central tenets of this thesis. The link between the state, allocation of scarce resources and active intervention is still not being made. The approach remains one of passive reaction.

Challenging Times.

Without legitimacy or credibility among those the British government is dependent on for a settlement or an accommodation it is likely a long war of low key attrition will continue as and when required. Hence the desperate measures taken to fudge everything while talks about talks and tortuous process of interpretation continue between the various parties. While the British government has asserted they no longer have a selfish economic or strategic interest in NI they have also declared the union remains safe. In support of this the Irish government have replaced their claim to the whole of Ireland as of right to one that enables the unionist majority to have a right of veto over any future settlement or union. The Belfast Agreement or the Peace Deal invites the players to become persuaders rather than enforcers. The desired outcome – an end to violence and the physical

⁹ 16 January 1995, Sinn Fein to British Government.

expression of resistance to British rule – in many senses directly resonates British policy from the time of conquest. The British government appeared to have successfully contained the situation for the moment. By acts of coercion and war Britain has sought to suppress resentment and rejection of its mandate. In this period of history Ireland cannot be seen as a potential threat or ally to an invading enemy –France, Spain or indeed communism – it is an economic and competitive partner in the same European market and the North is a financial and political liability. In addition the independent government of Ireland fully supports the accommodation proposed. The raft of administrative laws –a Human Rights Commission, a Bill of Rights, fresh equality laws, economic support, the reform of the RUC – all give expression to the recognition by both governments that a new style and form of management is essential.

The challenge remains however that the balance of forces within the North retains the strength of their competing visions and identities. These are reinforced by the patterns of inequality that have not fundamentally altered since 1921. Over a quarter century of Direct Rule has seen a range of lost opportunities to promote reconciliation. The oppressive legislative and physical apparatus in place today would be all too familiar to those engaged in the struggles of previous centuries. Today Irish, English and American governments are urging all to engage in a fresh start. The Peace Process brings its own rewards – loyalist and republican prisoners are freed; the physical apparatus of the state is toned down, an opportunity for returning to devolved government is presented, promises of more economic support are made and critically the fear of sudden death and destruction are removed. All the trump cards have now been played. The devil is in the detail.

A critical detail is inequality in employment. No one has been able to indicate that this circle can be squared within the context of the geo-political formation currently known as Northern Ireland without simply accepting NI as it is. A strategy to change the nature of an economy wholly dependent on the public purse and incapable of indigenous growth that can sustain its economically active population is absent. The *Partnership for Equality* agenda and the *Peace Agreement* offer the opportunity for an accommodation between the Catholic middle class and militant unionism. Whether this will suffice for the rest is a matter for future commentators as events unfold. It appears that the generations formed in militant struggles since the 1960's have decided to take a "time out", to see if the last card of their generations will produce the equitable and fair society all claim to desire.

This thesis has advanced the view that structural inequalities are essential to the maintenance and existence of the Northern state in its current form. The conclusion is that these inequalities cannot be fundamentally altered if the state is to remain true to its origins and purpose. If it is to become something else it will have to be in a different geopolitical context than the present. The Irish and British governments supported by all the major parties in the North have agreed to enter into an agreement that supports the “right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland”. This is the successful outcome and apex of a British strategy of containment.

While it is not exactly “business as usual” given the new frameworks and potential reforms of the states coercive apparatus the solution is strikingly colonial. As such it is likely to secure some form of stability, as the protagonists appear to have settled for a very long game in pursuit of their objectives. The Irish government formally signed their claim on the North away on the 2nd December 1999 while Peter Mandelson as Secretary of State, signed the British-Irish Agreement thereby replacing the 1985 Anglo-Irish Agreement, much detested by unionists. Mandelson also committed the government to the implementation of the Patten report on reforming the RUC, although no timetable has been set and everything is subject to the prevailing security situation.¹⁰ The competing objectives remain, as always, to be a part of the UK and to be part of a United Ireland. While Britain chooses to sustain the unionist veto through a myriad of political, economic and legal means the opportunity to create a society that is not driven by a post-colonial culture and consequent fractures is lost. The culture of Protestant possessiveness will continue to pervade because Northern Ireland is indeed their birthright, heritage and creation. It must always be so for to paraphrase McDonald, to be anything else is to deprive it of any purpose to exist. In the interim the players will line up at the gates of Stormont for a new form of devolution with Sinn Fein in government. As they do it is worth remembering nationalists have taken similar steps before. Failure has resulted in guerilla war and an internecine spiral of sectarian murders that the North is desperate to avoid returning to.

¹⁰ Northern Ireland Office, ‘Security – Return to Normality’, 22nd December 1999

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